



# **MIDDLESBROUGH BOROUGH COUNCIL**

## **CONSTITUTION**

**MAY 2015**

**LAST AMENDED 30 MARCH 2016**



# CONSTITUTION OF THE COUNCIL

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# **PART 1**

## **SUMMARY AND EXPLANATION**

# Summary and Explanation

## **The Council's Constitution**

Middlesbrough Council has agreed a new constitution which sets out 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.

The Constitution is divided into 19 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **How the Council operates**

The Council is composed of an elected mayor and 46 councillors. Councillors are democratically accountable to residents of their ward. 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.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them 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.

## **Role of Executive**

The Council will hold the Executive to account through the scrutiny process and directly in relation to departures from and amendments to the policy framework in accordance with the Rules of Procedure set out in Part 3 of this Constitution.

## **HOW DECISIONS ARE MADE**

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Elected Mayor, who is elected by all electors, and an Executive of between 2 and 9 councillors whom they appoint. When major decisions are to be discussed or made, these are published in the Executive's forward programme in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend except where confidential matters are being discussed.

The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **OVERVIEW AND SCRUTINY**

The Overview and Scrutiny Board and scrutiny panels support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.

Overview and scrutiny also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

### **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. 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, councillors and the Elected Mayor.

### **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can 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 may have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor and the Elected Mayor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a form of Executive;
- find out, from the Executive's forward work programme, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council, its committees and Executive, except where they relate to personal or confidential information;
- complain to the Council about any injustice which the complainant feels they may have suffered as a result of the standard of service, actions or lack of actions on the part of the Council or its employees or contractors affecting an individual customer or group of customers;
- complain to the Local Government Ombudsman if they believe that the Council has done something wrong which has caused them personal injustice. In certain exceptional

circumstances (for example, complaints such as school admission appeal complaints which require urgent resolution) the Ombudsman may accept a complaint directly. However, the Ombudsman normally requires a complaint to be put through the Council's own complaints procedure before accepting it.

- complain to the Council's Monitoring Officer if they have evidence that they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact either the Members' Office, the Executive Office or Legal Services at The Town Hall, Middlesbrough, TS1 9FX and refer to the Summary of Rights for Public Rights of Access to Council Information.

In this Constitution, the Middlesbrough Borough Council Scheme of Delegation, and the Middlesbrough Borough Council Financial and Contract Procedure Rules (Standing Orders):

- The **Chief Executive** shall be the Head of Paid Service and the Council's "Proper Officer" and shall, where permissible by law, discharge any functions delegated to another officer including all civic and ceremonial functions, and is referred to as "the **Head of Paid Service**";
- The **Strategic Director Finance, Governance and Support** shall be the Council's Section 151 Officer and Chief Finance Officer, and is referred to as "the **Chief Finance Officer**"; and
- The **Head of Legal Services** shall be the Monitoring Officer, and is referred to as "the **Monitoring Officer**".



## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

# Article 1 – The Constitution

## 1.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## 1.2 The Constitution

This Constitution, excluding all its appendices, is the Constitution of Middlesbrough Council.

## 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- i) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations as set out in the Sustainable Community Strategy – Vision 2030;
- ii) support the active involvement of citizens and stakeholders in the process of local authority decision-making;
- iii) help councillors represent their constituents more effectively;
- iv) enable decisions to be taken efficiently and effectively;
- v) create a powerful and effective means of holding decision-makers to public account;
- vi) ensure that no one will review or scrutinise a decision in which they were directly involved;
- vii) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- viii) provide a means of improving the delivery of services to the community.

## 1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

# Article 2 – Members of the Council

## 2.1 **Composition and Eligibility**

### (a) **Composition**

The Council comprises 46 councillors and the Elected Mayor. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Committee and approved by the Secretary of State. The Elected Mayor will be elected in accordance with the provisions of Article 2.4.

### (b) **Eligibility**

Only registered voters of the area or those living or working there will be eligible to hold the office of councillor or Elected Mayor.

## 2.2 **Election and Terms of Councillors**

### **Election and Terms**

The regular election of councillors will be held on the first Thursday in May every four years. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## 2.3 **Roles and Functions of all Councillors**

### (a) **Key Roles**

The Elected Mayor and councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics.

### (b) **Rights and Duties**

- (i) The Elected Mayor and the 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.

- (ii) The Elected Mayor and the 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. (for these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 3 of this Constitution.)

#### **2.4 Election of The Elected Mayor**

The term of office for the Elected Mayor will be 4 years. They will take office on the fourth day after their election and will continue in office until the fourth day after their successor is elected, unless they cease to be the Elected Mayor.

#### **2.5 Conduct**

The Elected Mayor and the councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 6 of this Constitution.

#### **2.6 Allowances**

The Elected Mayor and the councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 4 of this Constitution.

# Article 3 – Citizens and The Council

## 3.1 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 3 of this Constitution:

### (a) Voting and petitions

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

### (b) Information

Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive when key decisions are being considered except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) find out from the forward work programme what key decisions will be taken by the Executive and when;
- (iv) see reports and background papers, except where they relate to confidential or exempt information, and any records of decisions made by the Council, its committees and the Executive;
- (v) inspect the Council's accounts and make their views known to the external auditor.

### (c) Participation

Citizens have the right to participate:

- (i) in Public Question Time at Council meetings as specified in the Council's Procedure Rules;
- (ii) by speaking and asking questions of the Executive and committees with the prior consent of the Chair;
- (iii) by contributing to investigations by Overview and Scrutiny Board by invitation.

### (d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;

- (ii) the Ombudsman after using the Council's own complaints scheme (except in certain exceptional circumstances when the Ombudsman may accept a complaint directly);
- (iii) the Monitoring Officer about a breach of the Members' Code of Conduct.

### 3.2 **Citizens' Responsibilities**

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

# Article 4 – The Full Council

## 4.1 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:

1. Mayor's Vision
2. Change Strategy
3. Medium Term Financial Plan
4. Capital Strategy and Council's Budget Strategy (incorporated within:
  - a) Council Tax Base;
  - b) Revenue Budget
  - c) Council Tax; and
  - d) Prudential Indicators)
5. Youth Justice Plan
6. Licensing Authority Policy Statement (2003 Act)
7. Statement of Principles Gambling (2005 Act)
8. Local Development Plan (Local Development Framework/Local Plan)
9. Local Transport Plan
10. Pay Policy Statement

For the avoidance of doubt, if any of the above plans, as contained in Schedule 3 to Local Authorities (Functions and Responsibilities) (England) Regulations 2000, are replaced by other plans dealing with the same or similar issues such replacement plans shall be classed as forming part of the Policy Framework.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits and determination of the minimum revenue provision.

(c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## 4.2 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting, amending and changing the Constitution (subject to Article 15.2);
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 3 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) agreeing and/or amending the terms of reference for committees, other than Executive committees;
- (e) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (f) adopting an allowances scheme under Article 2.6;
- (g) changing the name of the area, conferring the title of honorary alderman or Freedom of the Borough;
- (h) confirming the appointment of the Head of Paid Service;
- (i) dismissing the Head of Paid Service, Monitoring Officer, or Chief Finance Officer
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in the Middlesbrough Borough Council Scheme of Delegation which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which by law must be reserved to Council.

#### 4.3 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules at Part 3 of this Constitution. All meetings of the Council are business meetings, rather than public meetings, at which councillors make decisions and transact business. The scope of, and limits to, public participation in meetings of the Council is set out in Article 3, and the Council Procedure Rules at Part 3, of this Constitution.

#### 4.4 Responsibility for Functions



The Council will maintain the tables in Part 1 of the Middlesbrough Borough Council Scheme of Delegation setting out the responsibilities for the Council's functions which are not the responsibility of the Executive, in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended or replaced.

# Article 5 – Chairing The Council

## 5.1 Role and Function of the Chair

The Chair and, in their absence, the Vice-Chair of Council will have the following roles and functions:

### CEREMONIAL ROLE

The Chair will be elected by the Council annually. The Chair will have the following responsibilities:

1. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
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;
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 are able to hold the Executive to account.
4. To promote public involvement in the Council's activities
5. To be the public conscience of the Council; and

## 5.2 Relationship of the Chair of the Council to The Elected Mayor

- (a) **First Citizen.** The Elected Mayor shall take precedence (i.e. shall be the first citizen of Middlesbrough); see also Part 6 of the Constitution.
- (b) **Promotion of the Council.** Together with the Elected Mayor, the Chair will promote the Council as a whole and act as a focal point for the community

# Article 6 – Overview and Scrutiny Board

## OVERVIEW AND SCRUTINY

### 6.1 Terms of Reference

The Council will appoint an Overview and Scrutiny Board to discharge the functions conferred by the Local Government Act 2000, the Health & Social Care Act 2001, Local Government and Public Involvement in Health Act 2007, Health & Social Care Act 2012 and regulations made thereunder.

#### Overview and Scrutiny Board

##### Scope

The Overview and Scrutiny Board will have delegated powers to manage the work of scrutiny as it thinks fit, and if appropriate will exercise or delegate to scrutiny panels the following functions of the Council:

- (a) On behalf of the Council to scrutinise Executive decisions.
- (b) On behalf of the Council to scrutinise recommendations by the Executive to the Council.
- (c) Following use of the Council's Call-in procedure to refer back Executive decisions once only, PROVIDED that the decision in question shall not already have been implemented. References back must contain details of the Board's concerns together with any revisions proposed.
- (d) To scrutinise the performance of Council services.
- (e) To scrutinise statutory plans of the Council.
- (f) To invite attendance by appropriate individuals to advise the Board in exercising its role. Such individuals will have expertise in the area subject to scrutiny; e.g. they may be a service user or a professional in a relevant discipline.
- (g) To question members of the Executive relating to the scrutiny of Executive decisions and recommendations and the performance of Council services.
- (h) To question chief officers, or any other officer after consultation with the chief officer relating to the scrutiny of service performance and reports on which Executive decisions are based.
- (i) To make recommendations to the Council on issues arising from scrutiny of Executive decisions, recommendations and performance including for example recommendations that an area of Council policy should be reviewed. Such recommendations must be contained in a report which the Executive will see, and have the opportunity to comment on before it is submitted to Council.
- (j) To monitor compliance with audit, external inspectorate reports following their consideration and adoption by the Executive and Council.

- (k) To scrutinise and monitor matters relating to Council budgets audit and resources issues.
- (l) To review and scrutinise matters relating to the planning, provision and operation of health services.
- (m) To respond to consultations from NHS bodies and proposals for substantial developments or variations in health services.

### **Scrutiny Panels**

There will be sub-committees of Overview and Scrutiny Board, called scrutiny panels. Scrutiny panels will be responsible for undertaking the scrutiny of any issue or topic as referred by the Overview and Scrutiny Board in relation to their remits.

Overview and Scrutiny Board may appoint ad-hoc panels which will be set up to take on a specific piece of work, particularly in relation to the review and development of the policy framework. On the completion of that specific piece of work, these panels will cease to exist.

## **6.2 General role**

Within their terms of reference, overview and scrutiny committees will

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in, for reconsideration, any decision made but not yet implemented by the Executive and/or key decisions made by officers;
- (e) assist in conducting reviews in relation to the Strategic Plan and Balanced Score Card process;
- (f) respond to Executive consultation requests.

## **6.3 Specific functions**

**Policy Development and Review.** Overview and scrutiny committees may:

- (a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (b) conduct research, including community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

- (d) question members of the Executive, committees and appropriate chief officers or other senior officers after consultation with the chief officer about their views on issues and proposals affecting the area; and
- (e) 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.
- (f) In relation to health scrutiny, require an officer of a local NHS body to attend to answer questions about matters under review.
- (g) In relation to health scrutiny, make reports and/or recommendations to local NHS bodies and to the local authority.

**Scrutiny of Performance and Service Delivery matters.** Overview and scrutiny committees may:

- (a) Review and scrutinise the decisions made by and performance of the Executive, committees and Council officers both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of the Executive, committees and appropriate chief officers or other senior officers after consultation with the chief officer 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;
- (d) make recommendations to the Executive and/or Council arising from the outcome of the scrutiny process in accordance with the overview and scrutiny rules;
- (e) review and scrutinise the performance of other public bodies in the area that have responsibilities for services to, and the health and well-being of, the community, and invite reports from them by requesting them to address overview and scrutiny bodies and local people about their activities and performance;
- (f) in furtherance of any of the above, question and gather evidence from any person (with their consent).

#### 6.4 **Proceedings of Overview and Scrutiny Board**

Overview and Scrutiny Board and scrutiny panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 3 of this Constitution.

#### 6.5 **Health Scrutiny**

The Overview & Scrutiny Board may advise the Council:

- (a) About arrangements for undertaking health scrutiny jointly with other authorities, particularly in respect of regional and specialist services, or where NHS bodies do not have coterminous boundaries with the local authority;
- (b) About protocols for how any joint health scrutiny arrangements might operate;
- (c) The Council confers its powers of review and Scrutiny, including the power of referral to the Secretary of State for Health to the Health Scrutiny Panel.

# Article 7 – The Executive

## 7.1 Role

The Executive will exercise all of the Council's functions which are not the responsibility of any other part of the Council, by law or under this Constitution.

## 7.2 Form

The Executive will consist of:

- An Elected Mayor; and
- at least 2 but not more than 9 Councillors appointed to the Executive by the Elected Mayor.

## 7.3 The Elected Mayor

### (a) Roles and functions.

The Elected Mayor will carry out the following roles:

- i) to be the Council's principal public spokesperson;
- ii) to give overall direction to the Council;
- iii) to appoint the Executive and Deputy Mayor;
- iv) to decide on the scheme of delegation for Executive functions;
- v) to chair meetings of the Executive;
- vi) to represent the Council on such external bodies as may be determined;
- vii) to propose the budget and policy framework and any amendment thereof;
- viii) to promote local strategic partnerships; and
- ix) to be the Council's representative on the Tees Valley Combined Authority.

### (b) Elected Mayor as Member of the Council.

The Elected Mayor will be treated as a councillor unless the law or context requires otherwise. In particular the Elected Mayor:

- i) is subject to the same rules about qualification and disqualification as any other councillor;
- ii) must follow the rules about disclosure of interests and comply with the Members' Code of Conduct set out in Part 6 of this Constitution

- iii) in accordance with the Council Procedure Rules may be a member of, attend and speak at any meeting of the Council, its committees and sub-committees, except the Standards Committee and overview and scrutiny committees. The Elected Mayor may only speak at an overview and scrutiny committee or Standards Committee when invited to do so and may not vote at those meetings;
- iv) will be taken into account when calculating seat allocations on committees and sub-committees of which they are a member, if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989;
- v) is subject to the Members' Allowances Scheme set out in Part 4 of the Constitution; and
- vi) is subject to the same rules about casual vacancies as apply to all councillors.

(c) **Title of Mayor.**

The title of Mayor may only be used by the Elected Mayor.

#### 7.4 **Deputy Mayor**

(a) **Appointment.**

At the first annual meeting of the Council after their election, the Elected Mayor will appoint one of the members of the Executive to act as Deputy Mayor.

(b) **Term of Office**

The Deputy Mayor will hold office until the end of the Elected Mayor's term of office unless they are no longer a member of the authority or the Executive, resigns as Deputy Mayor, or are removed by the Elected Mayor from the office of Deputy Mayor.

(c) **Duties of the Deputy Mayor**

If for any reason the Elected Mayor is unable to act, or the office of elected Mayor is vacant, the Deputy Mayor will act in their place until a new Mayor is elected or again able to act. If the Elected Mayor is unable to act or the office is vacant, at the same time as the Deputy Mayor is unable to act or the office of Deputy Mayor is vacant, then the Executive must act in the Elected Mayor's place, or arrange for a member of the Executive to do so. The Deputy Mayor will also be the Council's deputy representative on the Tees Valley Combined Authority in the absence or unavailability of the Mayor

(d) **Removal from office**

The Elected Mayor should report any removal of the Deputy Mayor to the Proper Officer at the next meeting of the Council.

#### 7.5 **The Executive other than the Elected Mayor**



(a) **Composition.**

Only councillors may be appointed to the Executive. There may be no co-optees, deputies nor substitution of Executive members. Neither the Chair nor Vice Chair of the Council may be appointed to the Executive. Members of the Executive may not be members of any overview and scrutiny committee.

(b) **Term of office**

Members of the Executive will hold office until their appointment is terminated by the Elected Mayor, or they resign from the Executive or are no longer a councillor.

(c) **Appointment by the Elected Mayor**

Subject to Article 7.2, the size and composition of the Executive will be solely a matter for the Elected Mayor to decide. They may choose to appoint councillors from any political group on the Council or those not in a political group. The Executive need not reflect the political balance of the Council as a whole.

The Elected Mayor will report their appointments to full Council and the Proper Officer as and when they are made.

(d) **Removal from office**

Any changes to the Executive should be reported to the Proper Officer and the next meeting of full Council.

(e) **Inability of whole Executive to act**

If all the members of the Executive are unable to act for any reason, then the Council will appoint an interim Executive to discharge the relevant Executive functions.

**7.6 Proceedings of the Executive**

Proceedings of the Executive will take place in accordance with the Executive Procedure Rules set out in Part 3 of this Constitution.

**7.7 Responsibility for functions**

The Elected Mayor will maintain a list in Part 2 of this Constitution setting out whether the Executive itself or which individual members of the Executive, committees of the Executive, officers or joint arrangements, are responsible for the exercise of particular Executive functions.

# Article 8 – Regulatory and other Committees

## 8.1 **Regulatory and Other Committees**

The Council will appoint the committees or delegate the functions set out in column 2 of the table Allocation of Functions – Non-Executive/Local Choice Functions in Part 3 of this Constitution to discharge the functions described in column 1 of that table.

# Article 9 – The Standards Committee

## 9.1 Standards Committee

The Council will establish a Standards Committee, appointed under the Localism Act 2011.

## 9.2 Composition

### (a) Membership

The Standards Committee will be composed of at least:

- Nine councillors (politically balanced);
- two parish council members

### (b) Parish Members

At least one parish member must be present when matters relating to those parish councils or their members are being considered;

### (c) Chairing the Committee

The Chair must be elected from the Standards Committee.

The Standards Committee may exercise the following functions:

- overview of the whistle blowing policy;
- overview of complaints handling and Ombudsman investigations; and
- to ensure individual oversight of key issues that relate to ethics in Local Government.

## Terms of reference

1. To make reports or recommendations to the Council in relation to:

- the approval by the Council of local codes of conduct for Members and officers, codes of practice, standing orders and protocols, taking account of national models and guidance or case tribunals.
- the implementation of local codes of conduct etc., and the dissemination throughout the Authority of information and guidance on their operation.
- consideration of any reports relating to the conduct of Members or officers which may be referred to it by the Council's Chair, Monitoring Officer or by the Chief Finance Officer under section 114 of the Local Government Finance Act 1988 in consultation with the Monitoring Officer, including issues relating to Members' and officers' interests and the maintenance and management of any relevant registers of interests.

- consideration of relevant reports referred by the Monitoring Officer and Chief Finance Officer and make recommendations thereon to the Council as necessary.
2. Grant dispensations to Councillors, Co-opted Members and Parish Council Members from the requirements relating to declarations of interest as set out in Section 32 of the Localism Act 2011.
  3. The determination, following an investigation, of allegations of breaches of Members' Codes of Conduct within such statutory provisions or guidance as may exist.
  4. To maintain an overview of the whistle-blowing policy, complaints handling and Ombudsman Investigations.
  5. Discharge of all of the above functions required by the Localism Act 2011 in relation to Parish Councils.

# Article 10 – Area Committees and Forums

## 10.1 **Area Committees**

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of cost effective and more efficient, transparent and accountable decision making.

The Council will consult with relevant Parish Councils when considering whether and how to establish area committees.

# Article 11 – Joint Arrangements

## 11.1 Arrangements to promote well being

The Executive, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

## 11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council.
- (b) The Executive 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.
- (c) Except as set out below, the Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Middlesbrough Borough Council Scheme of Delegations.

## 11.3 Access to Information

- (a) The Access to Information Rules in Part 3 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information rules are the same as that applied to the Executive.
- (c) If the joint committee contains members who are not members of the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

## 11.4 Delegation to and from other local authorities

- (a) The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

# Article 12 – Officers

## 12.1 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions of the Council.
- (b) **Chief Executive.** The Chief Executive will be the Head of Paid Service and will be responsible for the management functions.

**Monitoring Officer and Chief Finance Officer.** The Council will designate these posts.

- (c) **Structure.** The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out at Part 5 of this Constitution.

## 12.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council**

The Head of Paid Service may report to 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.

- (b) **Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 12.3 Functions of the Monitoring Officer

- (a) **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 inspection by members, staff and the public.

- (b) **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 (in relation to a Council function) or to the Executive (in relation to an Executive function) if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **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.



(d) **Conducting investigations**

In accordance with the standards procedure, the Monitoring Officer will conduct or secure investigations into complaints under the Councillors' Code of Conduct and make reports or recommendations in respect of them to the Standards Committee.

(e) **Proper Officer for access to information**

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(f) **Advising whether Executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(g) **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 and the Elected Mayor.

(h) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

The Monitoring Officer, or some other person authorised by them, is also responsible for: Corporate Complaints, Ombudsman cases, reviewing the Constitution and Whistleblowing.

#### 12.4 **Functions of the Chief Finance Officer**

(a) **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 Council (in relation to a Council function) or to the Executive (in relation to an Executive function) if they consider 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.

(b) **Administration of financial affairs**

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

(c) **Contributing to corporate management**

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

(d) **Providing advice**

The Chief Finance 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 and the Elected Mayor and will support and advise councillors and officers in their respective roles.

(e) **Give financial information**

The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community.

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

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

**12.6 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/ Officer Relations set out in Part 6 of this Constitution.

**12.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 3 of this Constitution.

# Article 13 – Decision Making

## 13.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in the Middlesbrough Borough Council Scheme of Delegation.

## 13.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness;
- (d) clarity of aims and desired outcomes;
- (e) a need to explain what options were considered and giving the reasons for the decision.

## 13.3 Types of decision

- (a) Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

- (b) Key Decisions:

Decisions (even if made by an officer) which:

- Will incur expenditure or savings that are above the threshold decided by the Council; and/or
- will have a significant impact in two or more wards.

Middlesbrough Council will, unless it is impracticable to do so, treat as if they were key decisions any decisions which are likely to have a significant impact on communities in one ward or electoral division. Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division, the decision maker will ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision making process. The Council will also have regard to the existence of significant communities of interest that cannot be defined spatially in determining whether a decision is key.

A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 3 of this Constitution.

#### **13.4 Circumstances when a decision is not defined as Key**

- (a) a bid of £150,000 or greater for funding made by the Council to third parties where a further report will be submitted to the Executive for approval of a scheme, should the bid be successful;
- (b) expenditure which is inevitable (as defined by the Head of Paid Service) for the day to day provision of services (e.g. day to day supplies, salaries and wages etc.);
- (c) a transaction which is carried out as part of the efficient administration of the Council's finances within the Council's agreed policies, (e.g. Treasury management activities);
- (d) a decision to invite tenders or sign contracts shall not be treated as a key decision so long as the purpose of the contract is to fulfil the policy intention of a previously taken key decision, implement an explicit policy within the approved budget or policy framework, implement a capital project named in the approved capital programme or provide for the continuation of an established policy or service;
- (e) a decision in which the essential elements of the proposal are included in the budget in sufficient details to allow interested parties to understand it;
- (f) an exempt decision regarding care packages, service responses and expenditure for care and accommodation which relate to individual service users.

#### **13.5 Points of Clarification on Key Decisions**

- (a) A proposal made by the Executive to Council to amend the policy framework will be a key decision.
- (b) Where the Executive has been granted power by the Council to amend any aspect of the policy framework, a decision to do so will be a key decision.
- (c) A key decision must be published 28 days prior to the decision being taken on the Council's Forward Plan. Where the publication of intention to take a key decision is impractical, the Chair of Overview and Scrutiny Board must be informed.
- (d) Scrutiny reports are not in themselves key, although the Executive's response may be.

#### **13.6 Decision making by the full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 3 of this Constitution when considering any matter.

#### **13.7 Decision making by the Executive**

Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part 3 of this Constitution when considering any matter.

### 13.8 **Decision making by Overview and Scrutiny**

Overview and scrutiny will follow the Overview and Scrutiny Procedure Rules set out in Part 3 of this Constitution when considering any matter.

### 13.9 **Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 34 of this Constitution as apply to them.

### 13.10 **Decision making by Council bodies acting as tribunals**

The Council, a councillor 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 as contained in Article 6 of the European Convention on Human Rights.

### 13.11 **Decisions delegated to officers**

The Openness of Local Government Bodies Regulations 2014 require officers of the Council to produce a written record of any decision for which they have received delegated authority to take, if the decision would otherwise have been taken by the Council, Executive, a Committee, Sub-Committee or Joint Committee either:

- **under a specific express authorisation** through the Middlesbrough Borough Council Scheme of Delegation (i.e. all non-key decisions which are non-sensitive); or
- **under general authorisation** where the effect of the decision is to grant a permission or licence; changes the legal rights of an individual; or award a contract (£16,000 - £149,999) or incur expenditure (£100,000 - £149,999) which in either case materially affects the Council's financial position.

When deciding whether to formally record a decision or not, the following guidance should be taken into consideration.

#### **The types of decision that DO NEED recording under these Regulations include:**

as a principle, significant organisational/operational decisions taken in relation to Council/Executive functions which are not key decisions and which fall outside the definition of a routine organisational/operational decision, namely the need to record decisions that:

- a) are outside of an approved budget;

- b) conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- c) raise new issues of policy; or

decisions which, in the opinion of the Head of Paid Service, Executive Director, Strategic Director, or Assistant Director, are of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the Authority.

Other specific examples would include:

- carrying out major road works;
- decisions to issue tree preservation orders;
- changes to charges
- determination of licensing applications, building control decisions and notices; and
- determination of planning applications and listed building consent applications.

**The types of decision that DO NOT need recording under these Regulations include:**

as a principle, routine organisational/operational decisions taken in relation to Council/Executive functions which are neither key or significant and:

- a) are within an approved budget;
- b) do not conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- c) do not raise new issues of policy; or

where the recording of such decisions is already required to be produced in accordance with any other statutory requirement (and which can be accessed by the public and include decision date and reason)

# Article 14 – Finance, Contracts and Legal Matters

## 14.1 **Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Middlesbrough Borough Council Financial and Contract Procedure Rules (Standing Orders).

## 14.2 **Contracts**

Every contract made by the Council will comply with the Middlesbrough Borough Council Financial and Contract Procedure Rules (Standing Orders).

## 14.3 **Legal proceedings**

The Council's Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

## 14.4 **Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## 14.5 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by them.

# Article 15 – Review and Revision of the Constitution

## 15.1 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **Protocol for monitoring and review of the Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. Observe meetings of different parts of the councillor and officer structure;
2. Undertake an audit trail of a sample of decisions;
3. Record and analyse issues raised with them by councillors, officers, the public and other relevant stakeholders; and
4. Compare practices in this Authority with those in other comparable authorities, or national examples of best practice.

## 15.2 Changes to the Constitution

### (a) **Approval**

- (i) Changes to the Articles of this Constitution will only be approved by the full Council after consideration of the proposal by the Constitution and Members' Development Committee on advice from the Monitoring Officer that the proposal complies with the statutory requirements.
- (ii) Minor amendments may be made by the Monitoring Officer to ensure that the Constitution complies with all relevant legislation, together with such other amendments as the Monitoring Officer may be authorised to make by Council.

### (b) **Change within a mayoral form of Executive**

Unless the change relates only to the operation of overview and scrutiny, any resolution of the full Council to approve a change will have no effect without the written consent of the Elected Mayor.

### (c) **Change from a mayoral form of Executive to another form of Executive or to alternative arrangements**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Elected Mayor's term of office.



# Article 16 – Suspension, Interpretation and Publication of the Constitution

## 16.1 Suspension of the Constitution

### (a) Limit to suspension

The Articles of 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.

### (b) 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 set out in Article 1.

### (c) Rules capable of suspension

The Council Procedure Rules may be suspended in accordance with Article 16.1 and paragraph 133 of the Council Procedure Rules as set out in part 3 of the Constitution

## 16.2 Interpretation

The ruling of the Chair of Council 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 contained in Article 1.

## 16.3 Publication

(a) The Monitoring Officer will make available an electronic copy of this Constitution to each member of the Authority upon delivery to them of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Monitoring Officer 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.

(c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# Article 17 – Other Committees of Council

## **Corporate Affairs and Audit Committee (which undertakes the Audit Statutory Function)**

To have delegated powers to:

1. Deal with any matter, which is not an Executive function and that has not delegated to any other committee of the Council, including consideration and approval of the draft and final accounts.
2. Grant dispensation to Councillors, Co-opted Members and Parish Council Members from the requirements relating to declarations of interest as set out in Sections 32 of the Localism Act 2011.
3. Consider any items of urgency that would require the approval of the Council, as determined by the Head of Paid Service in consultation with the Chair of the Council and the Leader of the Majority Group.
4. External Audit Functions
  - (a) To advise on the appointment of the Council's external auditor.
  - (b) To discuss with the external auditor the nature and scope of audit coverage, including value for money (VFM).
  - (c) To review external audit reports and annual audit letters, together with the management response and make recommendations to the Executive.
  - (d) To examine any other concerns of the external auditors.
5. Internal Audit Functions
  - (a) Monitor the progress and performance of internal audit.
  - (b) To review the internal audit annual plan.
  - (c) To consider significant findings of Internal audit reviews and investigations together with management responses and monitor implementation of agreed recommendations.
  - (d) To advise the Executive on the internal audit function, resourcing and standing within the Authority.
  - (e) To ensure co-ordination between internal and external auditors.
  - (f) To consider the Audit Manager's annual report and comment annually on the adequacy and effectiveness of internal audit control systems within the Council.
6. Risk Management Functions and Business Continuity Functions

- (a) To support and monitor the implementation and ongoing processes for identifying and managing key risks of the Authority.
- (b) To ensure that effective and proper processes and procedures are in place to ensure business continuity of the Council.

#### 7. Internal Control Functions

- (a) To review and approve the Statement of Internal Control.
- (b) To monitor the Council's compliance with its own published standards and controls and recommend any necessary changes to Financial Regulations and Contract Standing Orders.

#### 8. Corporate Governance

- (a) Keeping under review the Council's arrangements for Corporate Governance and proposing from time to time necessary actions to ensure compliance with best practice.
- (b) To keep under review corporate policies such as the Public Information Disclosure Code (Whistleblowing) and Anti-fraud Strategy and data Quality Policy.
- (c) Ensuring that effective systems are in place that will underpin the processes of the Council and ensure the highest standards in respect of audit and corporate governance matters.

#### 9. Reporting

To report to the Executive or to the Council as appropriate, with findings and recommendations.

**Finance.** Overview and Scrutiny Board may exercise overall responsibility for the finances made available to them.

**Annual report.** Overview and Scrutiny Board must report annually to full Council on the workings of the scrutiny process.

**Officers.** Overview and Scrutiny Board will exercise overall responsibility for the work programme of the officers employed to support the work of overview and scrutiny.

## Article 18 – Financial and Contract Procedure Rules (Standing Orders)

1. The Chief Finance Officer, on behalf of the Council, shall prepare and maintain a document containing the rules (Standing Orders) to be followed in respect of financial and contract procedures.
2. This document shall be referred to as the Middlesbrough Borough Council Financial and Contract Procedure Rules (Standing Orders) and shall be considered part of this Constitution and is hereby incorporated into this Constitution.
3. All financial transactions and contract proceedings must be carried out in accordance with the Middlesbrough Borough Council Financial and Contract Procedure Rules.

## Article 19 – Scheme of Delegation

1. The Monitoring Officer, on behalf of the Council, shall prepare and maintain a register of delegations, from Council and the Mayor, to Committees, Executive members, and officers.
2. This register shall be referred to as the Middlesbrough Borough Council Scheme of Delegation and shall be considered part of this Constitution and is hereby incorporated into this Constitution.
3. The exercise of all powers not contained in the Middlesbrough Borough Council Scheme of Delegation must be subject to an explicit authority from the Council, the Mayor, or the Executive as appropriate.

# Schedule 1: Description of Executive

## **EXECUTIVE FORMS OF CONSTITUTION**

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums) in so far as it relates to Executive functions;
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. The Middlesbrough Borough Council Scheme of Delegation (Executive Scheme of Delegation)

## Schedule 2: Executive Portfolios

EXECUTIVE PORTFOLIO	SCOPE OF PORTFOLIO
<p><b>The Mayor</b></p>	<p><b>Policy Framework</b></p> <p>The Mayor has overall Executive responsibility for all Policy Framework documents, although individual Executive Members take the lead for those documents which may come under their respective portfolios.</p> <p><b>Service areas and Functions</b></p> <p>The Mayor has overall responsibility for executive functions together with those general responsibilities detailed above. Service responsibilities have been delegated to the Executive Councillors. The Mayor will also be the Council's representative on the Tees Valley Combined Authority.</p>

EXECUTIVE PORTFOLIO	SCOPE OF PORTFOLIO
<p><b>Deputy Mayor / Executive Member for Regeneration</b></p> <p>(Lead AD: Assistant Director, Economic Development)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ Strategic Highway and Transportation (except where transferred to the Tees Valley Combined Authority)</li> <li>▪ Economic Growth</li> <li>▪ Inward investment</li> <li>▪ Job creation</li> <li>▪ Housing development</li> <li>▪ Planning and Building Control</li> <li>▪ Tees Valley Unlimited</li> <li>▪ Deputise for the Mayor on the Tees Valley Combined Authority</li> </ul> <p><b>Policy Framework</b></p> <ul style="list-style-type: none"> <li>▪ Local Development Framework/Development Plan Documents</li> <li>▪ Local Transport Plan</li> </ul> <p><b>Other Plans and Strategies</b></p> <ul style="list-style-type: none"> <li>▪ Regeneration Strategy</li> <li>▪ Regeneration Service Plan</li> <li>▪ Policies and Strategies for Housing Activity</li> <li>▪ Economic Development Strategy</li> <li>▪ Local Development Strategy</li> </ul>

- Development Briefs and Master Plans
- Public Rights of Way Plan
- Surface Water Management Plan

**Service Functions**

- Urban Policy and Implementation
- Regeneration Programmes
- Development Control
- Building Control
- Strategic Housing
- Landscaping and Countryside
- Development
- Economic Development (in tandem with the Tees Valley Combined Authority)
- Strategic Highways and Transportation
- Deputise when required at Sub-regional and regional activities (e.g. DTV Airport) for the Mayor

Creating the right environment for businesses by development and promotion of key business areas including:

- industrial/commercial areas;
- Middlesbrough town centre, including the night time economy;
- the DigitalCity/Boho Zone; and
- Middlehaven

Supporting the town's businesses including:

- direct support to businesses seeking to locate or expand;
- working with business agencies to ensure businesses can access support required;
- working with TVU to secure inward investment;
- providing engagement to involve businesses in the town's regeneration; and
- providing start up business accommodation in the Council's Enterprise Centres.

Support to residents to enable them to benefit from economic opportunities including:

- working with public, private and voluntary sector projects which provide initiatives/support for local people.
- Responsibility (jointly with Executive Member for Finance and Governance)



	for DigitalCity Business Trading Ltd including appointment of suitable Directors to act on the Council's behalf.
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<b>EXECUTIVE PORTFOLIO</b>	<b>SCOPE OF PORTFOLIO</b>
<p><b>Executive Member for Finance and Governance</b></p> <p>(Lead SD: Strategic Director, Finance, Governance &amp; Support)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ Human Resources</li> <li>▪ Legal Services</li> <li>▪ Democratic Services</li> <li>▪ ICT</li> <li>▪ Business Continuity</li> <li>▪ Communications</li> <li>▪ Policy, Performance and Information</li> <li>▪ Equality and Diversity</li> <li>▪ Risk Management</li> <li>▪ Project and Programme Management</li> <li>▪ Financial probity</li> <li>▪ Value for Money</li> <li>▪ Teesside Designated Authorities Budget</li> <li>▪ Commissioning</li> <li>▪ Investment Programme</li> <li>▪ Change Programme Issues</li> <li>▪ Asset management</li> <li>▪ Loans and Investments</li> </ul> <p><b>Policy Framework</b></p> <ul style="list-style-type: none"> <li>▪ Strategic Plan</li> <li>▪ Integrated Regional Strategy</li> <li>▪ Sub Regional Strategy</li> <li>▪ Council's Budget Strategy</li> <li>▪ Capital Strategy</li> </ul> <p><b>Other Plans and Strategies</b></p> <ul style="list-style-type: none"> <li>▪ Minimum Standard for Performance Management</li> <li>▪ Corporate Data Quality Policy</li> <li>▪ Corporate Equality and Diversity Policy</li> <li>▪ People Strategy</li> <li>▪ Implementing Electronic Government</li> <li>▪ Central Services Plan (where relevant to the portfolio)</li> <li>▪ Corporate Risk Management Strategy</li> <li>▪ Strategic Risk Register</li> <li>▪ Corporate Business Continuity Plan</li> <li>▪ Health and Safety Plan</li> <li>▪ Annual Audit and Inspection Letter</li> <li>▪ Internal and External Audit</li> <li>▪ Financial Resilience Assessment</li> <li>▪ Medium Term Financial Plan</li> <li>▪ Treasury Management</li> </ul>

	<ul style="list-style-type: none"> <li>▪ VFM Strategy</li> </ul> <p><b>Service Functions</b></p> <ul style="list-style-type: none"> <li>▪ Community Councils</li> <li>▪ Corporate Performance Management</li> <li>▪ Data Quality Champion</li> <li>▪ Human Resources</li> <li>▪ Information Services</li> <li>▪ Member Support Services</li> <li>▪ Risk Management and Business Continuity Champion</li> <li>▪ Health and Safety</li> <li>▪ Registrars</li> <li>▪ Town Twinning</li> <li>▪ Design Champion</li> <li>▪ Financial Services including VFM</li> <li>▪ Revenue, Investment and monitoring</li> <li>▪ Risk and Insurance</li> <li>▪ Internal and external Audit issues</li> <li>▪ Corporate Legal Matters</li> <li>▪ Mouchel – Strategic Management and Service Performance</li> <li>▪ Strategic Procurement</li> <li>▪ Housing Benefits and Council Tax</li> <li>▪ IT including E Government issues</li> <li>▪ Responsibility (jointly with Deputy Mayor and Executive Member for Regeneration) for DigitalCity Business Trading Ltd including appointment of suitable Directors to act on the Council's behalf.</li> <li>▪ Estates and Valuations</li> </ul> <p>In circumstances where it is considered that an Executive Member would have a prejudicial interest or by virtue of the fact that they are a member of the Thirteen Housing Group, that the matter will be referred to the Deputy Mayor and Executive Member for Regeneration.</p>
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<b>EXECUTIVE PORTFOLIO</b>	<b>SCOPE OF PORTFOLIO</b>
<p><b>Executive Member for Adult Health &amp; Social Care</b></p> <p>(Lead ADs: Assistant Director, Social Care and Assistant Director Improving Public Health &amp; Director of Public Health)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ People with disabilities (adults)</li> <li>▪ Elderly and frail people</li> <li>▪ People with Learning Disabilities and Mental Health conditions (adults)</li> <li>▪ Adults with Social Care needs</li> <li>▪ Carer Support</li> <li>▪ Health Service Quality</li> <li>▪ Public Protection</li> </ul>

### **Policy Framework**

- Think Local Act Personal, The Direction for Social Care Services
- Health and Social Care Reform.
- Health and Well Being Strategy
- NHS Commissioning and Delivery Plans – Local, Regional and National
- Licensing Authority Policy Statement 2003 Act
- Statement of Principle Gambling (2005 Act)
- Civil Contingencies Act 2004

### **Other Plans and Strategies**

- Supporting People Strategy
- Better Care, Higher Standards
- Prevention Strategy
- National Health Service Plan
- Older Peoples' Strategy
- Physical Disabilities Strategy
- Social Services' Equalities Plan
- Social Services' Care Service Plan
- Mental Health Strategy
- Learning Disabilities Strategy
- No Secrets, Protection of Vulnerable Adults from Abuse
- Taxis Licensing Executive Issues
- Joint Strategic Needs Assessment
- Food Safety Service Plan
- Health Safety Service Plan
- Environmental Enforcement
- NHS Health Check programme
- Food health and safety
- Trading Standards (Inc. Metrology)
- Licensing (Inc. Taxi Licensing)
- Environmental Health

### **Service Functions**

- Adult Social Services
- Social Services Performance and Modernisation
- Lead Authority arrangements with other Tees Valley Councils' with regard to the Metrology Service
- Social Services' Partnerships
- Older Persons' Champion
- Social Care Commissioning
- Environmental Health and Trading Standards

	In circumstances where it is considered that an Executive Member would have a prejudicial interest or by virtue of the fact that they are a member of the Thirteen Housing Board, that the matter will be referred to the Deputy Mayor and Executive Member for Regeneration.
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EXECUTIVE PORTFOLIO	SCOPE OF PORTFOLIO
<p><b>Executive Member for Environment</b></p> <p>(Lead AD: Assistant Director, Environment, Property and Commercial Services)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ Highways Maintenance</li> <li>▪ Public buildings</li> <li>▪ Parks and Open Spaces</li> <li>▪ Commercial Services</li> <li>▪ Environmental Sustainability</li> <li>▪ Welfare Reform</li> </ul> <p><b>Policy Framework</b></p> <ul style="list-style-type: none"> <li>▪ Relevant Environment and Waste Policies and Strategies</li> <li>▪ One Planet Living and Assisted Energy Strategies</li> </ul> <p><b>Other Plans and Strategies</b></p> <ul style="list-style-type: none"> <li>▪ Environment Service Plan (where relevant to the portfolio)</li> <li>▪ Carbon Reduction and Climate Adaptation (CRACA) Plan</li> <li>▪ Waste Management Plan</li> <li>▪ Environment Service Plan (where relevant to portfolio)</li> </ul> <p><b>Service Functions</b></p> <ul style="list-style-type: none"> <li>▪ Bereavement Services</li> <li>▪ Climate Change and Environmental Sustainability</li> <li>▪ Parks Management</li> <li>▪ Architects and Design Services</li> <li>▪ Streetscene (Includes: waste management and refuse collection, street cleansing, public toilets, fleet management and open spaces)</li> <li>▪ Highways Maintenance</li> <li>▪ Allotments</li> </ul> <p>In circumstances where it is considered that the Executive Member would have a prejudicial interest or by virtue of the fact that they are a member of the Thirteen Housing Group, the</p>

	matter will be referred to the Deputy Mayor and Executive Member for Regeneration.
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EXECUTIVE PORTFOLIO	SCOPE OF PORTFOLIO
<p><b>Executive Member for Education and Skills</b></p> <p>(Lead AD: Assistant Director, Learning and Skills)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ School partnerships</li> <li>▪ Education of vulnerable children</li> <li>▪ Special educational needs</li> <li>▪ Strategic School place planning</li> <li>▪ LA statutory duties for education</li> <li>▪ School Attendance and Child Employment Licensing</li> <li>▪ Governor Development</li> <li>▪ Admissions</li> <li>▪ Strategic school funding development</li> <li>▪ Middlesbrough Achievement Partnership</li> <li>▪ Liaison with education partners</li> <li>▪ Skills Development (in tandem with the Tees Valley Combined Authority)</li> </ul> <p><b>Policy Framework</b></p> <ul style="list-style-type: none"> <li>▪ Children and Young People’s Plan</li> <li>▪ Youth Justice Plan</li> <li>▪ National Curriculum</li> <li>▪ Assessment &amp; Accountability Framework 2016/17</li> <li>▪ Children &amp; Families Act 2014 – SEND Reforms</li> <li>▪ Ofsted Policy Framework</li> <li>▪ School Finance Regulations 2013</li> <li>▪ Education Act 2011</li> <li>▪ Academies Act 2010</li> <li>▪ Education and Skills Act 2008</li> <li>▪ Education and Inspection Act 2006</li> <li>▪ Children Act 2004(relevant to portfolio)</li> <li>▪ Education Act 2002</li> <li>▪ School Standards &amp; Framework Act 1998 as amended</li> <li>▪ Education Act 1996 as amended (in tandem with the Tees Valley Combined Authority)</li> <li>▪ Statutory Framework for Early Years Foundation Stage</li> <li>▪ Apprenticeships, Skills, Children and Learning Act 2009</li> <li>▪ Early Years Foundation Statutory framework</li> <li>▪ Education Act 2011</li> </ul>

### **Other Plans and Strategies**

- School Effectiveness Strategy
- 14-25 Strategy
- Vulnerable Learners Strategy
- Improvement Plan
- Capital Strategy & Asset Management Plan (Schools)
- Scheme for Financing Schools
- Adult Learning Plan
- Youth Employment Strategy
- Special Educational Needs and Disability Reforms

### **Service Functions**

- Advisory Service
- Special Educational Needs & Pupil Support
- Parent Partnership/Choice Advice
- Cleveland Unit nursery and child assessment centre
- Education Psychology
- Peripatetic Sensory Impairment Service (lead for joint arrangement)
- Pupil Referral Units
- Home & Hospital Education Service
- Virtual School for Looked After Children
- Ethnic Minority Achievement Service
- Traveller Education Service (lead for joint arrangement)
- Attendance & Child Employment Licensing
- School Admissions
- Governor Development Service
- School Business Relationship Management
- School Place Planning/School Organisation
- Capital Programme management (Schools)
- Middlesbrough Achievement Partnership support
- Community Learning Service

In circumstances where it is considered that the Executive Member would have a prejudicial interest or by virtue of the fact that they are a member of the Thirteen Housing Group, the matter will be referred to the Deputy Mayor and Executive Member for Regeneration.

EXECUTIVE PORTFOLIO	SCOPE OF PORTFOLIO
<p><b>Executive Member for Communities &amp; Public Health</b></p> <p>(Lead AD: Assistant Director, Supporting Communities and Assistant Director, Improving Public Health)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ Preventative approaches and early intervention to support children, young people and adults</li> <li>▪ Community Safety and Development</li> <li>▪ Neighbourhood Renewal</li> <li>▪ Supporting communities to access opportunities</li> <li>▪ Public Health</li> <li>▪ Joint Strategic Needs Assessment</li> <li>▪ Health Protection</li> <li>▪ Health Improvement</li> </ul> <p><b>Policy Framework</b></p> <ul style="list-style-type: none"> <li>▪ Local Neighbourhood Renewal Strategies</li> <li>▪ Voluntary Sector</li> <li>▪ Strategic Approach to Addressing Poverty</li> <li>▪ Neighbourhood Management and Renewal</li> <li>▪ Crime and Disorder (Reduction Strategy)</li> <li>▪ Community Safety including Law and Order Issues</li> <li>▪ Community Development</li> <li>▪ Community Hub Development</li> <li>▪ Human Rights Act</li> <li>▪ Public Health England Plans – Local, Regional and National</li> </ul> <p><b>Other Plans and Strategies</b></p> <ul style="list-style-type: none"> <li>▪ Middlesbrough Health and Wellbeing Strategy</li> <li>▪ 14–19 Strategy</li> <li>▪ Homelessness Strategy</li> <li>▪ Emergency Planning / Civil Contingencies</li> <li>▪ Public health advice to NHS commissioners</li> <li>▪ Comprehensive sexual health services</li> <li>▪ Health protection - incidents, outbreaks, emergencies and hazards</li> <li>▪ Tobacco control and smoking cessation services</li> <li>▪ Alcohol and drug misuse prevention, early intervention and treatment services</li> <li>▪ Obesity and physical activity - lifestyle and weight management services</li> <li>▪ Workplace health</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Public mental health and suicide prevention</li> <li>▪ Oral health promotion and dental public health</li> <li>▪ Accidental injury prevention</li> <li>▪ Prevention and early diagnosis of cancer and long term conditions</li> <li>▪ Preventing seasonal mortality</li> <li>▪ Public health intelligence – JSNA and DPH annual report</li> <li>▪ Annual Public Health Report</li> <li>▪ NHS Health Check programme</li> </ul> <p><b>Service Functions</b></p> <ul style="list-style-type: none"> <li>▪ 0-19 Service</li> <li>▪ Myplace</li> <li>▪ Troubled Families</li> <li>▪ Common Assessment of Families</li> <li>▪ Community Hubs / Regeneration</li> <li>▪ Community Safety</li> <li>▪ Street Wardens</li> <li>▪ Neighbourhood Safety</li> <li>▪ Travellers</li> <li>▪ Homelessness</li> <li>▪ Advice Services</li> <li>▪ Asylum Seekers</li> <li>▪ Safer Middlesbrough Partnership</li> <li>▪ Volunteering</li> <li>▪ Healthy Living Agenda</li> <li>▪ Integrated Health Improvement Team</li> <li>▪ Strategic and Corporate Public Health Issues</li> <li>▪ Cross cutting Strategic NHS Issues</li> <li>▪ Public Health Statutory Function</li> <li>▪ Emergency Planning</li> <li>▪ Welfare Reform</li> <li>▪ Diversity (including Asylum Seekers / Refugees and Community Cohesion)</li> </ul> <p>In circumstances where it is considered that the Executive Member would have a prejudicial interest or by virtue of the fact that they are a member of the Thirteen Housing Group, the matter will be referred to the Deputy Mayor and Executive Member for Regeneration.</p>
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<b>EXECUTIVE PORTFOLIO</b>	<b>SCOPE OF PORTFOLIO</b>
<b>Lead Executive Member for Children’s Services</b>	<b>Scope</b>



(Lead AD: Assistant Director, Safeguarding & Children's Care)

- The provision of statutory services to address the needs of all children and young people including the most disadvantaged and vulnerable and their families and carers who are in need of services to safeguard their welfare and wherever possible, seek to enable or provide a safe environment that reduces dependency on services
- Safeguarding of children and adults
- Health care of vulnerable children
- Looked after children
- Youth offending.

#### **Policy Framework**

- Corporate Parenting Strategy
- Middlesbrough Safeguarding Children Board Business Plan
- Looked After Children Strategy
- Safeguarding
- Mental Health Champion
- General principles of UN convention on the rights of the child
- Children Act 1989
- Children Act 2004 (relevant to portfolio)
- National Standards for Youth Justice Services
- MSCB Business Plan
- UN Convention on the Rights of the Child

#### **Other Plans and Strategies**

- Healthy Child Programme (5-19) (Inc. School nursing service)
- Children's Services Partnership
- Education and Vision Strategy

#### **Service Functions**

- Children's assessment and care planning teams
- Fostering services
- Adoption services
- Review and development team
- Leaving care services
- South Tees Youth Offending Service
- Risk Reduction services
- Children's homes
- Front of House response

In circumstances where it is considered that the Executive Member would have a prejudicial interest or by virtue of the fact that they are a

	member of the Thirteen Housing Group, the matter will be referred to the Deputy Mayor and Executive Member for Regeneration.
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<b>EXECUTIVE PORTFOLIO</b>	<b>SCOPE OF PORTFOLIO</b>
<p><b>Executive Member for Culture, Leisure and Sport</b></p> <p>(Lead AD: Assistant Director, Economic Development)</p>	<p><b>Scope</b></p> <ul style="list-style-type: none"> <li>▪ Cultural activities</li> </ul> <p><b>Policy Framework</b></p> <ul style="list-style-type: none"> <li>▪ Cultural Strategy (in tandem with the Tees Valley Combined Authority)</li> <li>▪ Library Position Statement</li> </ul> <p><b>Other Plans and Strategies</b></p> <ul style="list-style-type: none"> <li>▪ Sports development</li> <li>▪ Sports and Physical Activity Strategy</li> </ul> <p><b>Service Functions</b></p> <ul style="list-style-type: none"> <li>▪ Cultural Services</li> <li>▪ Museums and Galleries</li> <li>▪ Historic Environment and Conservation</li> <li>▪ Sports Venues</li> <li>▪ Sports Development and Events</li> <li>▪ Libraries / Archives</li> </ul> <p>In circumstances where it is considered that the Executive Member would have a prejudicial interest or by virtue of the fact that they are a member of the Thirteen Housing Group, the matter will be referred to the Deputy Mayor and Executive Member for Regeneration.</p>

<b>Portfolio</b>	<b>Name</b>	<b>Address</b>	<b>Ward</b>
Deputy Mayor and Executive Member for Regeneration	Councillor Charles Rooney	34 Minsterley Drive Acklam Middlesbrough TS5 8QR	Longlands and Beechwood
Executive Member for Environment	Councillor Tracy Harvey	40 Chandlers Ridge Nunthorpe Middlesbrough TS7 0JL	Newport
Executive Member for Communities and Public Health	Councillor Michael Thompson	63 Premier Road Pallister Park Middlesbrough TS3 8NU	Berwick Hills and Pallister
Executive Member for Adult Health and Social Care	Councillor Julia Rostron	61 Chipchase Road Linthorpe Middlesbrough TS5 6EL	Park
Executive Member for Culture, Leisure and Sport	Councillor Lewis Young	44 Alphonsus Street North Ormesby Middlesbrough TS3 6EA	North Ormesby
Lead Executive Member for Children's Services	Councillor Mike Carr	15 Harvington Chase Coulby Newham Middlesbrough TS8 0TR	Ladgate
Executive Member for Education and Skills	Councillor Janice Brunton	Flat 2 51 Oxford Road Linthorpe Middlesbrough TS5 5DY	Coulby Newham
Executive Member for Finance and Governance	Councillor Nicky Walker	38 The Viewley Centre Hemlington Middlesbrough TS8 9JH	Hemlington



**PART 3**

**RULES OF PROCEDURE**

# **COUNCIL PROCEDURE RULES**

## **COUNCIL PROCEDURE RULES**

1. The ruling of the Chair of the Council, as to the construction or application of any of these Rules, will be final. In the event that a circumstance arises that is not covered by the Council Procedure Rules, the ruling of the Chair shall be final.

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

#### **Timing and Business**

2. In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April, or May, usually at 7.00 p.m. however the timing of the meeting can be amended in agreement with the Monitoring Officer. The Annual Meeting will:
  - (a) elect the Chair of the Council, unless the Chair has previously been elected *pro tem*;
  - (b) elect the Vice Chair of the Council, unless the Vice Chair has previously been elected *pro tem*;
  - (c) receive and approve the minutes of the last meeting;
  - (d) receive any announcements from the Chair, Elected Mayor and or the Head of Paid Service;
  - (e) receive any declaration of interests from councillors;
  - (f) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters that are neither reserved to the Council nor are executive functions (as set out in the Middlesbrough Borough Council Scheme of Delegation);
  - (g) be informed by the Elected Mayor about the composition and constitution of the Executive for the coming year, and the names of councillors they have chosen to be members of the Executive including the Deputy Mayor;
  - (h) receive annually the Allocation of Responsibilities (the scheme of delegation) (as set out in the Middlesbrough Borough Council Scheme of Delegation);
  - (i) approve a programme of ordinary meetings of the Council for the year; and
  - (j) consider any other business set out in the notice convening the meeting.

#### **Selection of Councillors on Committees and Outside Bodies**

3. At the Annual Meeting, the Council meeting will:
  - (a) elect a person to preside at the Annual Meeting if the Chair is not present;
  - (b) decide which committees to establish for the Municipal Year;

- (c) decide the size and terms of reference for those committees;
- (d) decide the allocation of seats to political groups in accordance with the political balance rules;
- (e) receive nominations of councillors to serve on each committee and outside body; and
- (f) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive, unless such appointments have previously been agreed *pro tem*.

#### **ORDINARY MEETINGS OF THE COUNCIL**

- 4. (a) Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting.
- (b) Items to be included in the Summons shall be in any order that is considered appropriate by the Monitoring Officer for the efficient dispatch of the business of the meeting.

#### **Order of Business**

- 5. Except where the order of business has been varied by the Monitoring Officer, varied by a motion without debate, or varied by the Council approving a motion moved and seconded but not discussed, the order of business at every ordinary meeting of the Council shall be:
  - (a) to choose a person to preside if both the Chair and Vice Chair are absent;
  - (b) to receive any declarations of interests from councillors and any dispensations granted by the Monitoring Officer and the Standards Committee;
  - (c) to receive and approve the minutes of the last meeting;
  - (d) to receive and note any apologies for absence;
  - (e) to deal with any item of business required by statute to be done before any other business;
  - (f) to receive and consider any announcements or correspondence from the Chair, the Elected Mayor, members of the Executive or the Head of Paid Service;
  - (g) to receive any petitions that have been presented in accordance with the rules regarding validity of petitions and the timescales regarding presentation of petitions;
  - (h) to receive questions from, and provide answers to, the public, in accordance with the rules regarding scope of questions and timescales regarding receipt of questions;
  - (i) to receive and consider any statement of, or any report of the Elected Mayor;



- (j) to consider Executive matters including reports of executive members;
  - (k) to receive and consider any reports of overview and scrutiny committees;
  - (l) to give consideration to proposals from the Executive in relation to the Council's budget and policy framework;
  - (m) to consider any urgent items;
  - (n) to receive questions from, and provide answers to, councillors, in accordance with the rules regarding scope of questions and timescales regarding receipt of questions;
  - (o) to consider motions in accordance with the rules regarding scope of motions and timescales regarding receipt of motions;
  - (p) to consider any urgent motions in accordance with the rules regarding scope of motions and timescales regarding receipt of motions;
  - (q) to give consideration to any business reports;
  - (r) to deal with any business from the last Council meeting if necessary;
  - (s) to receive and consider reports about and receive questions and answers on the business of joint arrangements and external organisations; and
  - (t) to consider any other business, if any, specified in the summons to the meeting.
6. With the exception of items referred to in (a) and (b) above, the order of business may be varied on motion without debate. If the Chair proposes the motion it may be put to the vote without being seconded. This may also be done by the Council approving a motion moved and seconded but not discussed.

### **EXTRAORDINARY MEETINGS**

7. (a) Extraordinary Meetings may be called:
- i) by a request from the Chair of the Council;
  - ii) by the Council by resolution;
  - iii) at the request of the Monitoring Officer; or
  - iv) upon the signed written requisition of five Members of the Council,
- and shall be held on such date and at such time as may be determined by the Chair. Any request must specify the particular item of business for which the Extraordinary Meeting of the Council is to be called.
- (b) If the Chair should refuse, or neglect to call an Extraordinary Meeting within seven working days of receipt of such a requisition, any five members of the Council may call an Extraordinary Meeting on such date and at such time as those members may determine.

8. When any Extraordinary Meeting of the Council is called, the next following meeting of the Council shall be treated as a suitable meeting for the purpose of the approval and signing of the minutes of the Extraordinary Meeting.
9. The only business to be conducted at an Extraordinary Meeting of the Council will be to choose a person to preside if the Chair and Vice-Chair are absent or are otherwise unable to preside and to consider the matter specified in the request to call an Extraordinary Meeting. No other business may be conducted at the meeting unless the Council otherwise resolve.
10. The Extraordinary Meeting will be managed by the Chair of the Council.

### **ARRANGEMENTS FOR MEETINGS**

11. Meetings of the Council will usually take place at 7.00 p.m. in the Town Hall, Middlesbrough, or at the time given on the summons. The Chair will have the power to change the venue, day and time if they believe it to be appropriate.

### **CANCELLATION OF COUNCIL MEETINGS**

12. The Chair, or the Vice Chair in the Chair's absence, (or the Monitoring Officer if they are satisfied that there is no appropriate business to be considered at the meeting), can postpone, re-arrange or cancel a meeting of Council, provided:
  - (a) twenty four hours-notice of the cancellation of the meeting is given; and
  - (b) that the reason for cancellation is given.

Chairs, or Vice-Chairs in the Chair's absence, of the relevant committee can postpone, re-arrange or cancel meetings of a committee. A meeting of the Council or its committees or sub-committees may not be cancelled or postponed after the meeting has been duly convened.

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

13. The Council will give at least five days clear working days' notice to the public of any meeting, in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Monitoring Officer will send a summons signed by them by post or sent electronically to every councillor, or leave it 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, subject to the Access to Information Rules, be accompanied by all relevant reports.

### **CHAIR OF MEETINGS**

14. Any power or duty of the Chair in relation to the conduct of a meeting may be exercised by the person presiding at the meeting. Where these rules apply to committee and sub-committee meetings, references to the Chair also includes the Chair of committees and sub committees.
15. The Chair of any meeting, including the Council, shall have the power to refuse any

question, motion or debate if they consider that the matter being raised contravenes the Protocols included in these Rules of Procedure.

### **QUORUM OF COUNCIL**

16. The quorum at a meeting of the Council will be one quarter (12) of the whole of the membership (47). The quorum at a meeting of a committee or sub-committee will be the greater of 3 or one quarter of the whole of the membership. If at the start of the meeting there is not a quorum present, then if after a period of five minutes there is still not a quorum, the meeting will be abandoned. The business will be considered at the next ordinary meeting of the Council or at an Extraordinary meeting convened for that purpose.

### **DURATION OF MEETING**

17. Except where there are presentations of awards, or presentations by outside bodies, unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.
18. For any meeting of the full Council that includes in its agenda presentations of awards, or presentations by outside bodies the duration of a meeting shall be no longer than 3 hours 30 minutes.

### **SUBMITTING QUESTIONS**

19. The Proper Officer for receiving any questions and other matters relating to Council business is the Monitoring Officer.

### **WITHDRAWING QUESTIONS**

20. Once submitted, and prior to the circulation of the agenda and papers, questions can be withdrawn without consent. Once agenda papers have been printed and circulated, a question can only be withdrawn with the consent of the person to whom the question was put.

### **SCOPE OF QUESTIONS**

21. The Chair, on the advice of the Monitoring Officer may reject a question from a Member or from a member of the public if in their judgement it:
  - (a) is not about a matter for which the Executive has responsibility or which does not affect the Borough as a whole;
  - (b) is defamatory, frivolous or offensive;
  - (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
  - (d) requires the disclosure of confidential or exempt information;

- (e) relates to any matter which is more properly dealt with by an officer or by another body (including a committee of the Council), e.g. the Local Government Ombudsman or Standards Committee;
  - (f) reflects on the character or conduct of a person;
  - (g) is seeking an expression of an opinion, or contains an expression of opinion, inferences or imputations, or is rhetorical, controversial or ironic;
  - (h) is seeking the solutions of hypothetical propositions; raises questions of policy too large to be dealt with within an answer, seeks information on matters of past history for the purpose of argument, are a slight variation on a point previously made, or are trivial, vague or meaningless; or
  - (i) refers to communications between an individual officer and a councillor.
22. Questions to specific members of the Council, including the Elected Mayor, must relate to matters for which they have a clear responsibility. They may be asked for statements of their policy or intentions on such matters, or for information relating to services, administrative or legal actions. It is not permitted to put to a specific councillor a question for which another councillor is more directly responsible.
23. Questions asking whether statements in the press, or of private individuals, or unofficial bodies are accurate are not permitted.
24. Questions which renew or repeat questions already answered, or to which an answer has been refused, within the past six months are not permitted.
25. A councillor, including the Elected Mayor, can only refuse to answer a question with the agreement of the Chair. In such circumstances, supplementary questions cannot then be put.

### **RECORD OF QUESTIONS**

26. The Monitoring Officer 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. In the case of questions rejected by virtue of the Rules of Procedure, the Monitoring Officer shall inform the questioner, of the reasons for rejection and, if appropriate, any other body with which the matter should be raised.
27. Copies of all accepted questions will be circulated to all councillors and will be made available to the public attending the meeting.

### **QUESTIONS OR COMMENTS BY MEMBERS**

28. Any councillor can ask a question of the Elected Mayor, members of the Executive, or the Chair of a Committee or make a comment at all meetings of the Council with the exception of the Annual Meeting and the meeting for setting the Council Budget. Questions whether or not on notice by councillors will only be permitted if they comply with the protocol for questions.

## **Questions or comments with notice**

### **General**

29. In seeking to submit questions or comments with notice, but which do not relate to a report submitted to the meeting:
- (a) a member may only ask a question of the Chair, the Elected Mayor, a member of the Executive or any chair of any committee or sub-committee, or make a comment, on any matter in relation to which the Council has powers or duties, or which directly affects Middlesbrough as a whole; or
  - (b) a member of a committee or sub-committee may only ask a question of the Chair of that committee, or make a comment, on any other matter in relation to which the Council has powers or duties, or which directly affects Middlesbrough as a whole, and which falls within the terms of reference of that committee or sub-committee;
- if either:
- (i) they have given at least 3 clear working days' notice in writing of the question to the Monitoring Officer; or
  - (ii) the question or comment relates to urgent matters, and they have the consent of the person to whom the question or comment is to be put, and the content of the question or comment is given to the Monitoring Officer prior to the meeting.

### **Reports**

30. A member may only ask a question of the Chair, the Elected Mayor, a member of the Executive or any chair of any committee or sub-committee, or make a comment on any report submitted to the meeting, providing they have notified the Monitoring Officer of the subject of the question by 5.00 p.m. on the day prior to the meeting.

## **Questions or comments without notice**

31. Any Councillor may only ask a question or make a comment without notice on any matter relating to information, executive reports, or committee reports circulated after 5.00 p.m. on the day before the meeting in relation to the following:
- (a) any announcements or correspondence from the Chair, the Elected Mayor, members of the Executive, or the Head of Paid Service;
  - (b) any statement or report of the Elected Mayor;
  - (c) executive functions;
  - (d) any reports of overview and scrutiny committees; or
  - (e) reports about, and questions and answers on, the business of joint arrangements and external organisations,

when that item is being received or under consideration by the Council and where time allows.

### **Responses**

32. An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) a written answer circulated later.

### **Supplementary Question**

33. In respect of supplementary questions:

- (a) a member asking a question of the Chair, the Elected Mayor, a member of the Executive, or any chair of any committee or sub-committee, on any matter in relation to which the Council has powers or duties or which affects Middlesbrough as a whole; or
- (b) a member of a committee or sub-committee asking a question of the Chair of that committee, on any matter in relation to which the Council has powers or duties, or which affects Middlesbrough as a whole, and which falls within the terms of reference of that committee or sub-committee,

may at the sole discretion of the Chair ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must relate directly to the reply. It shall be the decision of the Chair as to whether a supplementary question should be answered.

### **Joint Committees/Joint Authorities or Outside Bodies**

34. Any councillor may, if after giving 7 clear working days' notice in writing to the Monitoring Officer, ask a question on the proceedings of, or the discharge of the functions of, that body in so far as it affects the Council.

### **QUESTIONS: GENERAL MATTERS**

#### **Reference of question to the executive or a committee**

35. Unless the Chair decides otherwise, no discussion will take place on any question, but any councillor may move that a matter raised by a question be referred to the Executive. Once seconded, such a motion will be voted on without discussion.

#### **Time allowed for questions**

36. Unless the Chair permits an extension of time, the time given for questions from the public or from councillors, shall not exceed 30 minutes in total, or at the discretion of the Chair, 45 minutes where the extension is warranted because of the number of questions or comments that have been notified to the Chair in advance of the meeting

and the extension will not restrict consideration of the remainder of the agenda. Questions which cannot be dealt with either because of lack of time or because of the non-attendance of the councillor to whom the question was put, will receive a written reply.

37. In order to assist the Chair in managing the meeting, any matters to be raised, or the subject of questions to be put in relation to Executive reports will be notified to the Monitoring Officer by 5.00 p.m. on the day prior to the meeting. If a verbal update is given at the meeting in relation to any of the reports on the summons, questions may be asked at the meeting without notice, with the consent of the Chair. In order to ensure consistency and equity members will be called to speak in the order in which the questions were received by the Monitoring Officer.
38. Unless the Chair permits otherwise, individual questioners will be allowed up to 2 minutes in which to ask their question. The relevant councillor will be allowed up to 3 minutes in which to answer.
39. If, in the opinion of the Chair, the questioner is making a speech, the Chair can ask that the question be put immediately.

#### **QUESTIONS BY THE PUBLIC - GENERAL**

40. Any elector of the Borough can ask a question of the Elected Mayor, Members of the Executive, or the Chair of a Committee at ordinary meetings of the Council with the exception of the Annual Meeting and the meeting for setting the Council Budget.

#### **Order of Questions**

41. Questions will be asked in the order notice of them was received, except where the Chair chooses to group together similar questions.

#### **Notice of Questions**

42. Any elector of the Borough may ask a question of the Elected Mayor, member of Executive on any matter relating to executive functions or the Chair of a Committee on any matter relating to that Committee's function. A question may only be asked if at least 7 clear working days before the day of the meeting has been given by delivering the question in writing or by electronic mail to the Monitoring Officer. Each question must give the name and address of the questioner and must name the member of the Executive or the Chair of a Committee to whom it is to be put. Otherwise the question will be answered by the Elected Mayor or Executive member or the Chair of a Committee as determined by the Elected Mayor.

#### **Number of Questions**

43. At any one meeting, no member of the public may submit more than one question nor without the consent of the Chair may that person submit more than five questions in any Municipal Year.

### **Asking the Question at the Meeting**

44. The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner, who has submitted a written question, is unable to be present, they may ask the Chair to put the question on their behalf. The Chair 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.
45. All questions will be put and answered without discussion but the person to whom a question has been put may choose to respond in writing.
46. The Monitoring Officer may paraphrase or edit any question if doing so would either clarify the point of the question, or make the question more concise.

### **Supplementary Question**

47. Members of the public are not permitted to ask supplementary questions.

### **Written Answers**

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

### **Reference of Question to Executive or a Committee**

49. No discussion will take place on any question, but any member may move that a matter raised by a question be referred to Executive, or the appropriate Committee. Once seconded, such a motion will be voted on without discussion.

## **RECEIPT OF RECOMMENDATIONS FROM THE EXECUTIVE, COMMITTEES AND STATUTORY OFFICERS**

### **Receipt of recommendations from the Executive**

50. The Executive shall make recommendations to the Council on any matter that is within the Council's functions falling to the Council to determine, or on which the Executive is required to consult with or obtain the approval of the Council. Such recommendations shall be moved by the Elected Mayor. A seconder to such a motion is not required.

### **Receipt of recommendations from Committees**

51. The Council shall consider recommendations made to it by Committees on matters falling within the Committee's terms of reference. The recommendation shall be moved by the Chair of that Committee. A seconder to such a motion is not required.

### **Receipt of recommendations from Statutory Officers**

52. The Head of Paid Service, Monitoring Officer, Chief Finance Officer, and Director of Children's Services may make reports to Council as necessary, or as required by statute in the exercise of their statutory responsibilities.



## **NOTICE OF MOTION**

53. Written notice of a motion, specifying the motion to be considered, must be given to the Monitoring Officer, at least 7 clear working days before the relevant Council meeting and must be signed by the member(s) giving the notice, with the exception of motions without notice and urgent motions. The motions will be open to public inspection. Members may accompany the proposed motions with an explanatory note setting out the background to the proposed motion.

### **Motion set out in agenda**

54. Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### **Scope of Motions**

55. Motions must be about matters for which the Council has a responsibility, or which directly affects Middlesbrough as a whole, and will only be permitted if they comply with the protocol set out in these Rules of Procedure.
56. The Council cannot take decisions in respect of any matter that is the responsibility of the Executive. Any motion therefore relating to the consideration of executive matters, or to decisions taken by, the Executive shall commence with the words "Council notes ....."

### **Eligibility of Motion**

57. The Chair, on the advice of the Monitoring Officer may reject a motion if in their opinion it:
- (a) is defamatory, frivolous or offensive;
  - (b) reflects on the character or conduct of any person;
  - (c) is seeking an expression of an opinion, or contains an expression of opinion, inferences or imputations, or is rhetorical, controversial or ironic;
  - (d) is seeking the solutions of hypothetical propositions, raises questions of policy too large to be dealt with in an answer; seeks information on matters of past history for the purpose of argument, are a slight variation on a point previously made, or are trivial, vague or meaningless; or
  - (e) refers to communications between an officer and a councillor.
58. 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 5 councillors.
59. 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 5 councillors.

60. Where the Chair considers it appropriate, any motion for which notice has been duly given and which relates to any recommendation of the Executive or a Committee or a statutory officer to be considered at the same meeting, may be treated as an amendment to such recommendation and shall be considered at the same time as the recommendation is considered.

### **MOTIONS WITHOUT NOTICE**

61. The following administrative motions may be moved without notice:
- (a) to appoint a chair of the meeting at which the motion is moved;
  - (b) in relation to the accuracy of the minutes;
  - (c) to change the order of business in the agenda;
  - (d) to refer something to an appropriate body or individual;
  - (e) to appoint a committee or member arising from an item on the summons for the meeting;
  - (f) to withdraw a motion, once the motion is moved and seconded;
  - (g) to amend a motion, once the motion is moved and seconded;
  - (h) to proceed to the next business;
  - (i) that the question be now put;
  - (j) to adjourn a debate;
  - (k) to adjourn a meeting;
  - (l) that the meeting continue beyond 3 hours in duration;
  - (m) to suspend a particular Council procedure rule;
  - (n) to exclude the public and press in accordance with the Access to Information Rules;
  - (o) to not hear further a councillor who persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructing business. The Chair may move that councillor be not heard further, if seconded, the motion will be voted on without discussion;
  - (p) If a councillor continues to behave improperly after a motion has been passed that they not be heard further, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period to allow the councillor to be excluded from the meeting. If seconded, the motion will be voted on without discussion; or
  - (q) to give the consent of the Council where its consent is required by this Constitution.

## **URGENT MOTIONS**

62. Urgent motions must relate to urgent matters. Whether an urgent motion is to be debated by Council is at the sole discretion of the Chair. Urgent matters will generally be interpreted as matters:
- (a) that have arisen since the 7 day period normally required in respect of Motions on Notice; and
  - (b) which, in the opinion of the Chair, shall not be delayed for consideration at the next ordinary meeting of the Council.
63. A member may move an Urgent Motion so long as the following are met:
- (a) they have given at least 3 clear working days' notice in writing to the Monitoring Officer and the Chair of the Council of the Urgent Motion;
  - (b) the motion is submitted in writing;
  - (c) the motion is accompanied by a written explanation as to how it relates to urgent matters; and
  - (d) the motion complies with these Rules of Procedure.

## **MOTIONS: RULES OF DEBATE**

64. No speeches may be made until a motion has been seconded;
65. Unless notice of the motion has already been given, the Chair may require it to be written down and handed to them before it is discussed;
66. When seconding a motion or amendment, a councillor may reserve their speech until later in the debate;
67. Speeches must be directed to the motion under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair.

### **When a member may speak again**

68. A councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) to speak once on an amendment moved by another councillor;
  - (b) to move a further amendment if the motion has been amended since they last spoke;
  - (c) if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - (d) in exercise of a right of reply;
  - (e) on a point of order;

- (f) by way of personal explanation; or
- (g) to answer a question directed at them by another councillor.

### **Amendments to motions**

69. An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words,
- as long as the effect of (b) to (d) is not to negate the motion, or introduce a new proposal.
70. 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.
71. If an amendment is not carried, other amendments to the original motion may be moved.
72. 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.
73. After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### **Alteration of motion**

74. A councillor may alter a motion of which they have as given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
75. A councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
76. Only alterations which could be made as an amendment may be made.

### **Right of reply**

77. 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.
78. 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.
79. The mover of the amendment has no right of reply to the debate on their amendment.

### **Motions which may be moved during debate**

80. When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw a motion;
  - (b) to amend a motion;
  - (c) to proceed to the next business;
  - (d) that the question be now put;
  - (e) to adjourn a debate;
  - (f) to adjourn a meeting;
  - (g) that the meeting continue beyond 3 hours in duration;
  - (h) to exclude the public and press in accordance with the Access to Information Rules; or
  - (i) to not hear further a member or to exclude them from the meeting.

### **Closure motions**

81. A councillor who has not previously spoken on a motion may move, without comment, the following motions at the end of a speech of another member:
- (a) to proceed to the next business;
  - (b) that the question be now put;
  - (c) to adjourn a debate; or
  - (d) to adjourn a meeting.
82. If a motion to proceed to next business is seconded, and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and will then put the procedural motion to the vote.
83. If a motion that the question be now put is seconded, and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting the motion to the vote.
84. If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **WITHDRAWAL OF MOTIONS**

85. Once submitted, and prior to the meeting for which they have been submitted, motions can be withdrawn without consent, but only before agenda papers are printed or circulated.
86. Once agenda papers have been circulated, motions can only be withdrawn with the consent of the Chair of the Council.
87. A councillor may only withdraw a motion at the meeting at which they have moved it with the consent of both the seconder and the meeting. 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 to withdraw is refused.
88. Motions containing subjects falling within the powers and duties of Executive or an Administrative Committee shall, after being moved and seconded, be automatically referred to the Executive or Administrative Committee. However, the Chair has the power to allow them to be noted at the Council meeting.
89. If a submitted motion is substantially similar to one which has been rejected by the Council within the previous six months it will not be included in the Summons.

#### **PRESENTATION OF PETITIONS**

90. Petitions containing 100 signatures or more may be received by meetings of the full Council if submitted to the Monitoring Officer at least 7 clear working days prior to the date of the Council meeting.
91. Whenever a petition of 100 or more signatures is presented, the rules embodied within the Council's Petition Scheme in relation to the presentation of petitions at full Council shall apply to all committees.
92. In respect of petitions presented to Council, the petitioner will be given up to two minutes to present the petition to the Council meeting.
93. The Mayor or Executive Councillor who has responsibility for the subject of the petition may speak, but the presentation of, and response to each petition received, is limited to no more than 5 minutes.
94. The Council cannot take any decisions, or pass any motion, in respect of any petition received that relates to Executive matters.

#### **THE REPORT OF THE ELECTED MAYOR**

95. The Elected Mayor shall have the opportunity to present a report, or make a verbal statement, at every ordinary meeting of the Council.
96. Unless the Chair permits otherwise, the time allowed for the Elected Mayor's report or verbal statement shall not exceed 10 minutes.
97. Unless the Chair permits otherwise, the time allowed for the Elected Mayor's report or verbal statement including questions, shall not exceed 30 minutes.

#### **THE REPORT OF OVERVIEW AND SCRUTINY COMMITTEES**

98. The Chair of the Overview and Scrutiny Board will have the opportunity to present to any meeting of the Council, with the exception of the Annual Meeting and the meeting for setting the Council Budget, an executive summary of the findings of scrutiny committees, together with action plans and the comments of the Executive.

## **CONSIDERATION OF EXECUTIVE MATTERS**

99. With the exception of the annual meeting and the meeting for setting the Council Budget, at each ordinary meeting of the Council, consideration shall be given to matters that are the responsibility of the Executive. These shall include the reports of the Elected Mayor and other Executive members, past decisions taken by the Executive, including 'single member' decisions, and forthcoming business of the Executive, as notified to members of the Council at least 10 working days prior to the Council meeting.
100. No decisions shall be taken by the Council in respect of any matter that is the responsibility of the Executive.

## **RULES OF DEBATE - GENERAL**

### **Point of order**

101. A councillor may raise a point of order at any time. The Chair will hear them immediately.
102. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The councillor must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

### **Personal explanation**

103. 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 Chair of the admissibility of a personal explanation will be final.

## **VOTING**

### **Majority**

104. Unless Statute or this Constitution provides otherwise, any matter will be decided by a simple majority of those members present and voting at the time the question was put. In respect of the approval of the Council's annual budget, Council can either adopt the budget (at which point the process stops), or it can object to it (**both votes on a simple majority basis**);

If the Council objects to the budget, it must go back to the Mayor and Executive for reconsideration;

The Mayor and Executive must reconsider the budget, and may choose to resubmit it:

- in its original form (with reasons why the Mayor and Executive disagree with the objection); or
- in an amended form;

Council must then consider the proposed budget (in whatever form it takes) and may either: adopt the budget (**simple majority vote**); or may reject it (**two thirds majority**).

### **Chair's casting vote**

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

### **Show of hands**

106. Unless a ballot or recorded vote is demanded, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **Ballots**

107. The vote will take place by ballot if 12 councillors present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

### **Recorded vote**

108. If 12 councillors present at the meeting demand it, or if the motion related to a decision within the terms of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014), with regard to the approval of the annual budget, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

### **Right to require individual vote to be recorded**

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

### **Voting on appointments**

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

## **MINUTES**

### **Signing the minutes**



111. The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.
112. The only part of the minutes that can be discussed is their accuracy.

### **No requirement to sign minutes of previous meeting at extraordinary meeting**

113. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an Extraordinary Meeting; the next Ordinary meeting will be treated as a suitable meeting for the purpose of signing those minutes.

### **Form of minutes**

114. Minutes will contain all motions and amendments in the exact form and order the Chair put them.

### **RECORD OF ATTENDANCE**

115. It is the responsibility of all Councillors attending a Council meeting to ensure that their attendance is recorded.

### **EXCLUSION OF PUBLIC**

116. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 3 of this Constitution or Rule 128 (Disturbance by Public).

### **COUNCILLORS CONDUCT**

#### **Standing to speak**

117. When a councillor speaks at full Council they must stand and address the meeting through the Chair. If more than one councillor stands, the Chair will ask one to speak and the others must sit. Other councillors remain seated whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

#### **Chair standing**

118. When the Chair stands or speaks during a debate, any councillor speaking at the time must stop and sit down. The meeting must be silent.

#### **Councillor not to be heard further**

119. If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively, or deliberately obstructs business, the Chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

#### **Councillor to leave the meeting**

120. If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **General disturbance**

121. If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

## **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

### **Allocation**

122. As well as allocating seats on committees and sub-committees, the Council at the Annual Meeting will authorise the Monitoring Officer to appoint substitutes on the instructions of a political group or independent member.

### **Designation of Substitutes**

123. A substitute may be designated for each member appointed to a committee or sub-committee:
- (a) by the Council, if so requested by the Member; or
  - (b) by the member, by notification to the Monitoring Officer at least 24 hours prior to the date of the meeting. Designation as a substitute shall take effect immediately after notification to the Monitoring Officer for the specific meeting, or until such later time as shall be specified by the Member and, in respect of a member appointed to more than one committee or sub-committee. A different substitute may be designated for each appointment.
124. Where a substitute is purportedly appointed less than twenty four hours prior to the meeting, that appointment will not take effect and the substitute may not take part in the meeting.

### **Termination of Appointment**

125. A Member may, by written notification to the Monitoring Officer, terminate the appointment of a substitute with immediate effect.

### **Powers and Duties**

126. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

### **Substitution**

127. At the commencement of a meeting at which a substitute is to attend as substitute they shall identify the member for whom they substitute, who shall be excluded from participating in that meeting and for whom there shall be no further substitution at that meeting.

## **DISTURBANCE BY PUBLIC**

### **Removal of member of the public**

128. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

#### **Clearance of part of meeting room**

129. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

#### **USE OF MOBILE DEVICES DURING COUNCIL MEETINGS**

130. During Council meetings all mobile devices should be switched to silent mode.
131. Texting and tweeting and filming are permitted providing it does not interfere with the conduct of the business.
132. The use of all mobile devices is prohibited during all Council meetings when the press and public are excluded in accordance with the Access to Information Rules at Part 3 of this Constitution.

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

##### **Suspension**

133. All of these Council Rules of Procedure, except in the case where the Chair uses his casting vote, may be suspended by motion if at least one half of the whole number of members of the Council are present and vote. Suspension can only be for the duration of the meeting.

##### **Amendment**

134. Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the Constitution and Members' Development Committee, which will submit a report to the next ordinary meeting of the Council.

#### **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

135. All of the Council Rules of Procedure apply to meetings of full Council, Committees and Sub-Committees of the Council.



# **ACCESS TO INFORMATION PROCEDURE RULES**

# Access to Information Procedure Rules

## 1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Board, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Executive (together called meetings).

## 2. ADDITIONAL RIGHTS TO INFORMATION

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

## 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings, subject only to the exceptions in these rules.

## 4. NOTICES OF MEETING

The Council will give at least five clear working days-notice of any meeting by posting details of the meeting on the public notice board inside the main reception of the Town Hall.

## 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and any available reports open to the public available for inspection at the Town Hall at least five clear working 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.

In the event that reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

## 6. SUPPLY OF COPIES

The Council will supply copies of:

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

## 7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of

proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The relevant officer, usually the 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 their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of reports to the Executive, the advice of a political advisor.

### **8.2 Public inspection of background papers**

The Council 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.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

These rules constitute the public's rights to attend meetings and to inspect and copy documents.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information: requirement to exclude public**

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

### **10.2 Exempt information: discretion to exclude public**

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.

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.

### 10.3 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.

### 10.4 Meaning of exempt information

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

	Category	Condition
1.	Information relating to any individual.	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
2.	Information which is likely to reveal the identity of an individual.	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>“person” includes any public authority, company, or other legally constituted organisation and the partners in a partnership or firm.</p> <p>Includes information relating to the Council.</p> <p>Information falling within paragraph 3 is not exempt by virtue of that paragraph if it is required to be registered under:</p> <p>a) the Companies Act 1985  b) the Friendly Societies Act 1974  c) the Friendly Societies Act 1992</p>



		<p>d) the Industrial and Provident Societies Acts 1965 to 1978  e) the Building Societies Act 1986  f) the Charities Act 1993</p> <p>“Registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p> <p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>Also see note 1 below</p>
4.	<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means:</p> <p>a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>b) any dispute about a matter of falling within paragraph (a) above;</p> <p>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 the authority as they apply in relation to employees of the authority.</p> <p>“office holder”, in relation to the authority means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>

		Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.  Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6.	Information which reveals that the authority proposes:  a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  b) to make an order or direction under any enactment.	“Person” includes any public authority, company, or other legally constituted organisation and the partners in a partnership or firm.  Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.  Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.  Also see Note 1 below
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
The above 7 categories of exemption apply to all meetings of the Council, Scrutiny, Area Committees (if any), Regulatory Committees, the Standards Committee, and public meetings of the Executive (including single member decision meetings) and any sub-committees thereof. In addition, when the Standards Committee, and any sub-committees thereof are convened to consider an investigation or a matter for local determination, the following 3 additional categories of exempt information will apply		
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 findings 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>Note 1. All members of the Council (but not members of the public or press) are entitled to access to documents which:</p> <p>(a) are “exempt” under category 3 (unless the information relates to terms proposed or to be proposed in relation to a Council contract) and</p> <p>(b) to any documents which are “exempt” under category 6, if they so request.</p>		

### 1.5 Meaning of exempt information (health scrutiny)

Category	Condition
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.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
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.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
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.	Information is exempt 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.
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.	Information is exempt 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.
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.	
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.	Information is exempt 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 Health Authority.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
11. Information relating to a particular person who is or was providing services, or has made a request to a Health Authority to become a person providing services, under arrangements under section 28C of the 1977 Act.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
12. Information relating to a particular person who is or was formerly performing personal medical services or personal dental services in accordance with arrangements under section 28C of the 1977 Act.	Information is not exempt 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, 11 or 12.	Information is not exempt 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.	

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10,

the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13, Paragraph 13.3, of this Constitution.

If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a mayoral assistant present, within 28 days of the date according to the forward work programme by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward work programme) has been published in connection with the matter in question;
- (b) A Key Decision must be published 28 days prior to the decision being taken on the Council’s Forward Plan. Where the publication of intention to take a Key Decision is impractical, the Chair of the Overview and Scrutiny Board must be informed.
- (c) at least 5 clear days have elapsed since the publication of the forward plan; and
- (d) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD WORK PROGRAMME**

### **14.1 Period of forward work programme**

Forward plans will be prepared by the Elected Mayor to cover a period of at least four months, beginning with the first day of any month. The Forward Plan is a live document and published once any new Forward Plan item is added.

### **14.2 Contents of forward work programme.**

The forward work programme will contain matters which The Elected Mayor has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the work programme. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive 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
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward work programme now also contains matters which are non-key, however there is no deadline for these decisions to be published on the Forward Plan.

Exempt information need not be included in a forward work programme and confidential information cannot be included.

#### 15. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward work programme, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward work programme;
- (a) the Proper Officer has informed the Chair of the Overview and Scrutiny Board, or in their absence the Chair of the relevant scrutiny panel, or if neither is available, each member of that Board or panel in writing, by notice, of the matter to which the decision is to be made;
- (b) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (c) at least 5 clear days have elapsed since the Proper Officer complied with (a) and (b).

#### 16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Board or relevant scrutiny panel that the taking of the decision cannot be reasonably deferred. If there is no such Chair or if the Chair is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When the Overview and Scrutiny Board can require a report**

If the Overview and Scrutiny Board or a scrutiny panel thinks that a key decision has been taken which was not:

- (a) included in the forward work programme; or
- (b) the subject of the general exception procedure; or
- (e) the subject of an agreement with the Chair of the Overview and Scrutiny Board/panel, or the Chair or Vice Chair of the Council under Rule 16; the Board/panel may require the Executive to submit a report to the Council within such reasonable time as the Board/panel specifies. The power to require a report rests with the Board/panel, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Board/panel when so requested by the Chair or any 5 members. In respect of education matters this includes voting co-optees.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board/panel.

### **17.2 Mayor's report to Council**

The Elected Mayor may prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of receipt of the written notice, or the resolution of the Board/panel, 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 Elected Mayor is of the opinion that it was not a key decision the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**

In any event the Elected Mayor will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (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.

The report will also contain details of urgent decisions taken in accordance with the Overview and Scrutiny Procedure Rules (15 (h)).

## **18. RECORD OF DECISIONS**

After any meeting of the Executive or any of its committees, whether held in public or private, the Head of Paid Service or Monitoring Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

## 20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

Under the statutory instrument, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is now a requirement for Local Authorities to give at least 28 clear days' notice of its intention to hold a meeting in private.

The Local Authority must:

- (a) make available on the public notice board of the relevant local authority a notice of its intention to hold the meeting in private; and
- (b) publish that notice on the local authority's website;
- (c) The notice must include the reasons as to why the meeting is to be held in private;
- (d) Where a date which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chair of the Overview and Scrutiny Board, or where there is no such person, or the Chair of the Overview and Scrutiny Board is unable to act, agreement would be obtained from the Chair of the Council;
- (e) The Chair of the Overview and Scrutiny Board must be provided with a clear case as to why the meeting is urgent and cannot be reasonable deferred;
- (f) Once agreement has been sought, steps (a) – (c) must be followed;
- (g) Members of the Executive or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## 21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

### 21.1 Notice and Attendance

- (a) All members of the Executive will be served notice of all private meetings of the Executive or its committees, whether or not they are members of that committee.
- (b) All members of the Executive are entitled to attend a private meeting of any committee of the Executive.
- (c) Members other than Executive members will not be entitled to attend private meetings of the Executive, and its committees without the prior agreement of the Elected Mayor or Chair.

### 21.2 Officer Involvement

- (a) The Head of the Paid Service, the Chief Finance Officer, the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- (b) A private Executive meeting may only take place in the presence of the Proper Officer or their nominee with responsibility for recording and publicising the decisions



## **22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **22.1 Reports intended to be taken into account**

Where an individual member of the Executive receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least 5 clear days after receipt of that report.

### **22.2 Provision of copies of reports to Overview and Scrutiny Board**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Overview and Scrutiny Board or relevant scrutiny panel as soon as reasonably practicable, and make it publicly available at the same time.

### **22.3 Record of individual decisions**

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive or a key decision has been taken by an officer, they will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

## **23. OVERVIEW AND SCRUTINY BOARDS ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, the Overview and Scrutiny Board (including its panels) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive or its committees; or
- (b) any decision taken by an individual member of the Executive.

### **23.2 Limit on rights**

An Overview and Scrutiny Board will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a mayoral assistant.

## **24. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS**

### **24.1 Material relating to previous business**

All councillors will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within the following categories of exempt information; 3 (with the exception of information relating to terms of a council contract under negotiations) and 6; or
- (b) it contains the advice of a mayoral assistant.

#### 24.2 **Material relating to Key Decisions**

All councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

#### 24.3 **Nature of rights**

These rights of a councillor are additional to any other right they may have.

#### 24.4 **Inspection and supply of documents**

- (a) Background papers that have been referred to within an Executive report must now be available for public inspection. These will be published on the Council's website and a hard copy will be made available at the Town Hall reception.
- (b) Confidential background papers are excluded from the rule.

#### 25. **Decisions delegated to officers**

The Openness of Local Government Bodies Regulations 2014 require officers of the Council to produce a written record of any decision for which they have received delegated authority to take, if the decision would otherwise have been taken by the Council, Executive, a Committee, Sub-Committee or Joint Committee either:

- **under a specific express authorisation** through the Middlesbrough Borough Council Scheme of Delegation (i.e. all non-key decisions which are non-sensitive); or
- **under general authorisation** where the effect of the decision is to grant a permission or licence; changes the legal rights of an individual; or award a contract (£16,000 - £149,999) or incur expenditure (£100,000 - £149,999) which in either case materially affects the Council's financial position.

The form of the written record should include:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered (if any) and why those options were rejected;
- the service area responsible for the decision and the name of the officer making the decision;

- details of any conflict of interest declared by any executive member consulted in relation to the decision; and
- a list of any background papers (if any).

The decision form should be available for inspection at the Council's offices and on the Council website as soon as is reasonably practicable after the decision has been made.

The written record and any background papers (if any) should be retained and be available for inspection for a period of six years following the date of the decision.

# **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

# Budget and Policy Framework Procedure Rules

## 1. The framework for Executive decisions

- (a) The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.
- (b) When determining any plan, strategy or budget the Executive and the Council shall comply with the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001, as contained in Schedule 1 to these rules, or any amendment or replacement thereof. The Regulations shall take precedence over any provisions contained herein if there is a conflict.

## 2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- (a) The Elected Mayor will publicise, by way of the Forward Work Programme, 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 the arrangements for consultation after publication of those initial proposals. The Chair of Overview and Scrutiny Board and Chairs of scrutiny panels will also be notified.
- (b) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If an Overview and Scrutiny Board or panel wishes to respond to the Executive in that consultation process then it may do so. As the Overview and Scrutiny Board or panels have responsibility for fixing their own work programme, it is open to them to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from such a body into account in drawing up firm proposals for submission to the Council.
- (c) Once the Executive has approved the firm proposals, the Proper Officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Executive's proposals, amend them, refer them back to the Executive for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Executive 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.
- (f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Elected Mayor.
- (g) An in-principle decision will automatically become effective 5 working days from the date of the Council's decision, unless the Elected Mayor informs the Proper Officer in writing within 5 working days that they object to the decision becoming effective and provides reasons why.

- (h) In that case, the Proper Officer will call a Council meeting within a further 10 working days. The Council will be required to re-consider its decision and the Elected Mayor's written submission within 10 days. The Council may:
  - (1) approve the Executive's recommendation by a simple majority of votes cast at the meeting; or
  - (2) approve a different decision which does not accord with the recommendation of the Executive by a two thirds majority of those present and voting.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Elected Mayor, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. Decisions outside the budget or policy framework**

- (a) Subject to the provisions of paragraph 5 (virement) and the Financial Procedure Rules in the Middlesbrough Borough Council Financial and Contract Procedure Rules, the Executive, committees of the Executive, individual members of the Executive and any officers or joint arrangements discharging Executive functions 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 4 below.
- (b) If the Executive, committees of the Executive, individual members of the Executive and any officers or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the 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 either 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 paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. Urgent decisions outside the budget or policy framework**

- (a) The Executive, a committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging Executive functions 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, if in the opinion of the Chair of the Council or in his absence the Vice-Chair of the Council:

1. if it is not practical to convene a meeting of the full Council; and
2. if the Chair of the Overview and Scrutiny Board or relevant scrutiny panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a meeting of full Council and the consent of the Chair of the Overview and Scrutiny Board to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Board consent of the Chair of the Council, and in the absence of both the Vice-Chair of the Council will be sufficient.

- (b) Following the decision, the decision taker 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.

## 5. **Virement**

- (a) The Council have established rules for virement and these are set out in the Middlesbrough Borough Council Financial and Contract Procedure Rules.
- (b) Steps taken by the Executive, a committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads within the limits set out in the Financial Procedure Rules. Beyond those limits, approval to any virement across budget heads shall require the approval of the full Council.

## 6. **In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging Executive functions 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 those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) that are necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

## 7. **Call-in of decisions outside the budget or policy framework**

- (a) Where the Overview and Scrutiny Board or a scrutiny panel is of the opinion that an Executive 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 it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be presented to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Overview and Scrutiny Board or panel if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance 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 Overview and Scrutiny Board or scrutiny panel 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 10 days of the request by the Overview and Scrutiny Board. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - 1) endorse a decision or proposal of the Executive decision taker 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
  - 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
  - 3) 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, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.



## **SCHEDULE 1 - STANDING ORDERS WITH REGARD TO CERTAIN PLANS AND STRATEGIES AND THE COUNCIL'S BUDGET**

(as required by The Local Authorities (Standing Orders) (England) Regulations 2001)

### **Interpretation**

1. In this part of the Council Procedure Rules -  
    **"Elected Mayor"** and **"Executive"** have the same meaning as in Part II of the Local Government Act 2000; and  
    **"plan or strategy"** and **"working day"** have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

### **Action in respect of Executive's plan or strategy proposal**

2. Where the Executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

### **Notification of objection to plan or strategy proposals**

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

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

### **Revision of plan or strategy proposals**

4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the Elected Mayor receives the instructions on behalf of the Executive within which the Elected Mayor may -
  - (a) submit a revision of the draft plan or strategy as amended by the Executive (the "revised draft plan or strategy"), with the Executive's reasons for any amendments made to the draft plan or strategy, to the authority for the authority's consideration; or
  - (b) inform the authority of any disagreement that the Executive has with any of the authority's objections and the Executive's reasons for any such disagreement.

### **Council decisions on plan or strategy**

5. Subject to paragraph 6, when the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when -

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy,

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

6. Where the authority proposes to –

- (a) amend the draft plan or strategy or, as the case may be, the revised draft plan or strategy;
- (b) approve, 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
- (c) adopt with modifications the plan or strategy,

and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft plan or strategy or, as the case may be, the revised draft plan or strategy, the question whether to amend, to approve or to adopt the plan or strategy must be decided in accordance with paragraph 7.

7. The question referred to in paragraph 6 must be decided by a two thirds majority of the members of the authority present and voting on the question at a meeting of the authority.

#### **Action regarding Executive's budget proposals**

8. Subject to paragraph 14, where, before 8th February in any financial year, the authority's Executive submits to the authority for its consideration in relation to the following financial year -

- (a) 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;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 9.

### **Notification of objection to budget proposals**

9. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 8(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the elected Mayor of any objections which it has to the Executive's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

### **Revision of budget proposals**

10. Where the authority gives instructions in accordance with paragraph 9, it must specify a period of at least five working days beginning on the day after the date on which the Elected Mayor receives the instructions on behalf of the Executive within which the Elected Mayor may -
  - (a) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
  - b) inform the authority of any disagreement that the Executive has with any of the authority's objections and the Executive's reasons for any such disagreement.

### **Council decisions on budget**

11. Subject to paragraph 12, when the period specified by the authority, referred to in paragraph 10, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 8(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -
  - (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the Executive's reasons for those amendments;
  - (c) any disagreement that the Executive has with any of the authority's objections; and
  - (d) the Executive's reasons for that disagreement,which the Elected Mayor submitted to the authority, or informed the authority of, within the period specified.
12. Where the authority, for the purposes of making the calculations or issuing the precept, proposes to use estimates or amounts ("the different estimates or amounts") which are not in accordance with the Executive's estimates or amounts or, as the case may be, the Executive's revised estimates or amounts, the question whether to use the different estimates or amounts must be decided in accordance with paragraph 13.

13. The question referred to in paragraph 12 must be decided by a two thirds majority of the members of the authority present and voting on the question at a meeting of the authority

**Excepted Budget Proposals**

14. Paragraphs 8 to 13 shall not apply in relation to –
  - (a) 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
  - (b) 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.

# **EXECUTIVE PROCEDURE RULES**

# Executive Procedure Rules

## 1. OPERATION OF THE EXECUTIVE

### 1.1 Executive decisions

Functions which are the responsibility of the Executive may be exercised by the Elected Mayor. The Elected Mayor may also delegate authority to exercise those functions to the extent they wish:

- i) to the Executive as a whole;
- ii) to a committee of the Executive;
- iii) to an individual member of the Executive;
- iv) to an officer;
- v) to an area committee;
- vi) to joint arrangements; or
- vii) to another local authority.

### 1.2 Delegation by the Executive

At the Annual Meeting of the Council, the Elected Mayor will present to the Council a written record of delegations made by them for inclusion in the Council's scheme of delegation. The document presented by the Elected Mayor must contain the following information in relation to the following year in so far as they relate to Executive functions:

- i) the names, addresses and wards of the people appointed to the Executive by the Elected Mayor;
- ii) the extent of any authority delegated to those Executive members individually, including details of the limitation on their authority.
- iii) the terms of reference and constitution of such Executive committees as the Elected Mayor appoints and the names of the Executive members they appoint to them;
- iv) the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and
- v) the nature and extent of any delegation of Executive functions to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of Executive functions

- (a) If the Elected Mayor delegates functions to the Executive, and unless they direct otherwise, then the Executive may delegate further to a committee of the Executive, to an officer, to any joint arrangements, to another authority or to area committees.
- (b) If the Elected Mayor delegates functions to a committee of the Executive, and unless they direct otherwise, the committee may delegate further to an officer.
- (c) Where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

#### **1.4 The Council's scheme of delegation and Executive functions**

The Council's scheme of delegation will be adopted by the Council at its Annual Meeting. It will contain the details required in Article 7 and set out in the Middlesbrough Borough Council Scheme of Delegation. During the year amendments to the scheme of delegation in relation to Executive functions may be effected as follows:

- (a) The Elected Mayor may amend the Executive Scheme of Delegation at any time during the year. To do so, the Elected Mayor must give written notice to the Proper Officer who shall inform all councillors within 5 days and report these changes to the next ordinary Council meeting. Where the Elected Mayor wants to withdraw or amend delegation to a committee, notice will be served on that committee when it has been served on its chair.
- (b) The notice to the Proper Officer will set out the extent of the proposed amendment to the Executive Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The amendment will take effect on the date when the Proper Officer gives notice to all councillors to that effect.

#### **1.5 Conflicts of Interest**

- (a) Where the Elected Mayor has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a committee of the Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made or otherwise as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.

#### **1.6 Executive meetings**

The Executive will meet at least 10 times per year at times to be determined by the Elected Mayor. The Executive will meet at the Council's main offices or another location to be determined by the Elected Mayor.

#### **1.7 Public or private meetings of the Executive**

In addition regard will always be had to the principles of decision making set out in Article 13 of this constitution in determining the status of meetings of the Executive and in relation to the frequency, timing and location of meetings.

#### **1.8 Quorum**

The quorum for a meeting of the Executive, or a committee of it, shall be 3.

#### **1.9 Decisions taken by the Executive**

Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 3 of this Constitution.

### **2. CONDUCT OF EXECUTIVE MEETINGS**

#### **2.1 Chair**

If The Elected Mayor is present, they shall preside. In their absence, if present the Deputy Mayor shall preside. In the absence of both, the Executive shall elect a Chair for the meeting.

#### **2.2 Attendance at Executive meetings**

These details are set out in the Access to Information Rules in Part 3 of this Constitution. In the case of private meetings of the Executive, other members, officers, and external stakeholders may be invited by the Elected Mayor, or Chair if it is a committee of the Executive, at their discretion.

#### **2.3 Business**

At each meeting of the Executive the following business will normally be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Executive (whether by the Overview and Scrutiny Board or panel or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 3 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Board or panel; and
- (v) reports from the chairs of member bodies which are the responsibility of the Executive.
- (vi) 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 3 of this Constitution.

#### **2.4 Consultation**



All reports to the Executive on proposals relating to the budget or policy framework must contain details of consultation with stakeholders and relevant Overview and Scrutiny Board or panel, and the outcome of that consultation. Reports on other matters must set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the matter under consideration.

## **2.5 Items for the Executive agenda**

The Elected Mayor will decide the schedule for the meetings of the Executive, and will be able to put on the agenda of any Executive meeting any matter which they wish. The Proper Officer will comply with the Elected Mayor's requests in this respect. Any member of the Executive may require the Proper Officer to ensure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If they receive such a request, the Proper Officer will comply.

The Proper Officer will ensure that an item is placed on the agenda of the next available meeting of the Executive if a relevant Overview and Scrutiny Board or panel or the full Council has resolved that an item must be considered by the Executive.

Any councillor may request the Elected Mayor to put an item on the agenda of an Executive meeting for consideration. If the Elected Mayor agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive within an appropriate timescale to deal with the issue in question, then they may also require that a meeting be convened at which the matter will be considered.

# **OVERVIEW AND SCRUTINY PROCEDURE RULES**

# Overview and Scrutiny Procedure Rules

1. **The number and arrangements for Overview and Scrutiny Committees**
  - (a) The Council will have an Overview and Scrutiny Board as set out in Article 6 and will appoint to it as it considers appropriate from time to time. The Overview and Scrutiny Board will manage all overview and scrutiny functions on behalf of the Council and may, in addition to those standing overview and scrutiny panels established at the annual meeting, appoint temporary sub-committees (ad-hoc scrutiny panels).
  - (b) Scrutiny panels may also be appointed by the Council for a fixed period, or by Overview and Scrutiny Board to undertake a specific review on the expiry of which they shall cease to exist, as set out in Article 6.
  - (c) Church and parent governor representatives will be appointed to the Overview and Scrutiny Board, and to the scrutiny panel whose remit includes responsibility for the scrutiny of education. They will also be invited to attend any other scrutiny panel considering education and related matters. Church and parent governor representatives will have the right to participate in any board or panel meeting when these consider education and related matters. Furthermore, they shall be entitled to vote at a meeting of the Overview and Scrutiny Board, or any scrutiny panel, on any question:
    - (i) which relates to any education functions which are the responsibility of the Executive; and
    - (ii) which falls to be considered at the meeting.
  - (d) The terms of reference of the Overview and Scrutiny Board will include:
    - (i) the performance of all overview and scrutiny functions on behalf of the Council.
    - (ii) the appointment of such sub-committees as it considers appropriate to fulfil specific overview and scrutiny functions which, for the purpose of the scrutiny of health, might include joint arrangements as detailed in Article 11;
    - (iii) approving an annual overview and scrutiny work programme, including the programme of any panels appointed so as to ensure that the Board's and panels' time is effectively and efficiently utilised;
    - (iv) where matters fall within the remit of more than one overview and scrutiny panel, determining which of those panels will assume responsibility for any particular issue, or if it so decides, to undertake the scrutiny itself;
    - (v) putting in place a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;

- (vi) at the request of the Executive, making decisions about the priority of referrals to the Executive in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business.

## 2. **Membership of Overview and Scrutiny Committees**

All councillors except members of the Executive may be members of an overview and scrutiny board or panel. However, no member may be involved in scrutinising a decision in which they have been directly involved.

## 3. **Co-optees**

- (a) Any overview and scrutiny panel shall be entitled to recommend to the Overview and Scrutiny Board the appointment of a number of people as co-optees.
- (b) In addition to the education representatives detailed in 4 below, up to 2 additional co-opted members may be appointed to the Overview and Scrutiny Board and any other scrutiny panel.
- (c) With the exception of the education representatives detailed in 4 below, co-opted members will have no voting rights either in respect of the Overview and Scrutiny Board or any other scrutiny panel.
- (d) With the exception of the education representatives detailed in 4 below, co-opted members will normally be appointed for a period of 1 year.
- (e) At the discretion of the Chair of the Overview and Scrutiny Board or any other scrutiny panel, additional 'Invited Members' may be invited to act as 'expert witnesses' for the duration of a particular scrutiny topic. This is in addition to any co-opted members who might be serving on that Board or panel.

## 4. **Education Representatives**

The Overview and Scrutiny Board and any scrutiny panel which has in its remit any education and related matter shall include in its membership the following voting representatives:

- (a) Church of England diocese representative (at least one);
- (b) Roman Catholic diocese representative (at least one);
- (c) appropriate representation of other faiths or denominations (if directed by the Secretary of State);
- (d) between 2 and 5 parent governor representatives

In addition, such representatives shall be invited to any other scrutiny panel that will be discussing education or related matters.

If the Overview and Scrutiny Board or overview and scrutiny panels deal with matters other than education and related issues, these representatives shall not vote on those

other matters, though they may stay in the meeting and speak except if dealing with confidential or exempt matters.

#### **5. Meetings of the Overview and Scrutiny Committees**

The Overview and Scrutiny Board will meet at regular intervals. In addition to scheduled meetings, extraordinary meetings may be called from time to time as and when appropriate. Meetings of scrutiny panels may be called by:

- a) the chair of the relevant panel;
- b) any 5 members (including voting co-optees) of the panel in respect of education matters; or
- c) the Proper Officer, if they consider it necessary or appropriate.

#### **6. Quorum**

The quorum for the Overview and Scrutiny Board or any scrutiny panel shall be the greater of 3 or one quarter of the whole of the membership (including, in respect of education matters, voting co-optees).

#### **7. Work Programme**

The Overview and Scrutiny Board shall be responsible for setting its own work programme, and that of the scrutiny panels. In doing so the Board shall take into account the wishes of members on that panel who are not members of the largest political group on the Council.

#### **8. Agenda Items**

Any member of the Overview and Scrutiny Board or any scrutiny panel shall be entitled to give notice to the Proper Officer that they wish an item relevant to the functions of the Board or panel to be included on the agenda for the next available meeting. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

#### **9. Policy Review and Development**

- (a) Within the financial resources allocated to them, the Overview and Scrutiny Board, or on the request of the Board an appropriate scrutiny panel, may hold enquiries 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.
- (b) If, during the consultation period required under Part 3 of this Constitution (Budget and Policy Framework Procedure Rules) the Council decides on initial consideration that any plan, strategy or budget that forms part of the budget and policy framework should be subject to the scrutiny process, then Council will ask the Overview and Scrutiny Board to give consideration to the plan, strategy or budget and report on its findings. The Overview and Scrutiny Board shall either give consideration to the plan, strategy or budget, or shall establish a temporary (ad-hoc) scrutiny panel to give consideration to the plan, strategy

or budget. Once the ad-hoc scrutiny panel has reported back to the Overview and Scrutiny Board on its findings, that panel shall be disbanded.

- (c) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework the Overview and Scrutiny Board or panels may make proposals to the Executive in respect of policy review and development in so far as they relate to matters within their terms of reference.

#### **10. Consideration of Executive reports**

Once it has given consideration to Executive proposals for policy development, the scrutiny panel will prepare a formal report and submit it to the Proper Officer for consideration by the Overview and Scrutiny Board and then by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council if the proposal would result in a departure from or a change to the agreed budget and policy framework.

#### **11. Ensuring that Overview and Scrutiny reports are considered by the Executive**

Once an overview and scrutiny report on any matter which is the responsibility of the Executive has been completed, it shall be included on the agenda of the next available meeting of the Executive. If for any reason the Executive does not consider the overview and scrutiny report within 8 weeks then the matter may be referred by the Overview & Scrutiny Board to Council for review, and the Proper Officer will call a Council meeting to consider the report and make a recommendation to the Executive.

#### **12. Rights of Overview and Scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of the Overview and Scrutiny Board and panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 3 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Board or panels as appropriate depending on the particular matter under consideration.

#### **13. Members and officers giving account**

- (a) The Overview and Scrutiny Board or panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require the Elected Mayor, any other member of the Executive, the Head of Paid Service and/or any chief officer or, after consultation with the chief officer, other senior officer to attend a meeting of the Board or panel to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend an Overview and Scrutiny Board or panel under this provision, the chair of that body will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing, giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the meeting. Where the account to be given to the meeting 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.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Board or panel shall in consultation with the member or officer arrange an alternative date for attendance.

#### **14. Attendance by others**

- (a) The Overview and Scrutiny Board or panel may invite people other than those people referred to in paragraph 13 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 shall invite such people to attend.
- (b) In particular, the Overview and Scrutiny Board or a scrutiny panel can require an officer of a local NHS body to attend to answer questions about any health scrutiny matter that is under review in accordance with the powers and duties conferred by the Health & Social Care Act 2001 and the Local Government and Public Involvement in Health Act 2007.

#### **15. Call-in**

- (a) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council by the second working day following the day of the decision. Chairs of the Overview and Scrutiny Board and all relevant panels will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, after the fifth working day following the publication of the decision, unless the decision becomes subject to the call-in procedure.
- (c) In order for a Call-In to be valid, the Call-In form must be requested by an elected member or voting co-opted member.
- (d) The form is available from the Proper Officer and
  - Must be signed by 5 members;
  - Must be returned to the Proper Officer by 5pm on the fifth working day following publication of the decision.

- (e) At the meeting considering the call-in, the reasons for the call-in will be presented to the Overview and Scrutiny Board by the member who has initiated the call-in, or one of the other signatories to the call-in. Paragraphs 13 and 14 above shall apply equally to call-ins
- (f) If the member who initiated the call-in wants a person who is a member or an officer of the authority to appear as a witness, then the permission of the Chair of the Overview and Scrutiny Board must be sought at least three clear working days prior to the date of the call-in meeting.
- (g) Any person appearing at a call-in as a witness may only provide factual information.
- (h) During that five working days following the day of the publication of the decision, any five members of the Council including voting co-opted members in respect of education matters may request that the Proper Officer calls in a decision for scrutiny by the Overview and Scrutiny Board. The Proper Officer shall then verify the validity of the Call-In and notify the decision-taker of the call-In and will call a meeting of the Overview and Scrutiny Board on such date as they may determine, where possible after consultation with the Chair of the Overview and Scrutiny Board, and in any case no sooner than 8 working days of the decision to call-in.
- (i) If, having considered the decision, the Overview and Scrutiny Board is concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If a decision is so referred, then the decision maker shall reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision. If the recommendations of the Overview and Scrutiny Board are not accepted in full, then the decision maker should notify the Overview and Scrutiny Board and give reasons for not accepting the recommendations.
- (j) If following an objection to the decision, the Overview and Scrutiny Board does not meet within 17 working days of the decision, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that 17 working day period, whichever is the earlier.
- (k) If the matter is referred to full Council by the Overview and Scrutiny Board, on the grounds that the Board consider the decision in question to be contrary to the policy framework or contrary to or not wholly in accordance with the budget, and the Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object to the decision, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened within 10 working days of the Council in order to reconsider the request of the Council. Where the decision was made by an individual, the individual will reconsider their decision within 5 working days of the Council's request. If the recommendations of the Council



are not accepted in full, then the decision maker should notify the Council and give reasons for not accepting the recommendations.

- (l) If the Council does not meet within 4 weeks, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or upon the expiry of the 4 week period, whichever is the earlier.
- (m) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-In process would seriously prejudice the interests of the Council or the public. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of Overview and Scrutiny Board should agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair of Overview and Scrutiny Board, the Vice-Chair's consent shall be required. In their absence, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported quarterly to the Council, together with the reasons for urgency.
- (n) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## 16. **The party whip**

When considering any matter in respect of which a member of the Overview and Scrutiny Board, or a scrutiny panel, is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17. **Procedure at Overview and Scrutiny committee meetings**

- (a) Overview and Scrutiny Board, and scrutiny panels, shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive to reports of the overview and scrutiny committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Board or scrutiny panel conducts investigations the committee may also ask people to attend to give evidence to the meeting, which will be conducted in accordance with the following principles;
  - (i) the investigation will be conducted fairly and all members of the Board or panel will be given the opportunity to ask questions of attendees, and to contribute and speak;

- (ii) those assisting the committee by giving information or evidence shall be treated with respect and courtesy
  - (iii) the investigation shall be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Overview and Scrutiny Board or panel shall prepare a report, for submission to the Executive and/or Council as appropriate, and shall make its report and findings public.

**18. Matters within the remit of more than one Overview and Scrutiny Panel**

Where a matter for consideration by a scrutiny panel, including an ad-hoc panel, also falls within the remit of one or more other panel, the decision as to which scrutiny panel will consider it will be resolved by the Overview and Scrutiny Board.

**19. Health Scrutiny**

Any scrutiny panel established to review and scrutinise health services shall operate within the procedure rules relating to other panels, but the following additional rules shall apply:

- (a) In carrying out a review or scrutiny, the panel shall:
  - (i) have regard to regulations and guidance on health scrutiny matters that have been issued by the Secretary of State;
  - (ii) invite interested parties to comment on matters under review
  - (iii) take account of any relevant information available and in particular any relevant information provided by a Patients' Forum
- (b) Reports or recommendations from the panel shall include:
  - (i) an explanation of the matters reviewed or scrutinised;
  - (ii) a summary of the evidence considered;
  - (iii) a list of the participants involved in the review;
  - (iv) any recommendations on the matter reviewed or scrutinised
- (c) When the panel is responding to a consultation from a local NHS body about proposals for substantial developments or variations in services, it shall do so by the date specified by the NHS body.

**20. Councillor Calls for Action**

To consider Councillor Calls for Action.



# **OFFICER EMPLOYMENT PROCEDURE RULES**

# Officer Employment Procedure Rules

## 1. Recruitment and appointment

### (a) Declarations

- (i) Middlesbrough Council requires any candidate for appointment to state in writing whether they are the husband, wife, partner, parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, the Elected Mayor or an officer of the Council; or of the partner of such persons. The requirement to make a written declaration is included in:
  - the Council's standard application form; and
  - recruitment information produced in those cases where application forms are not used.
- (ii) No candidate so related to a councillor, the Elected Mayor or an officer will be appointed without the authority of the relevant Strategic/Assistant Director or an officer nominated by them.

### (b) Seeking support for appointment.

- (i) Middlesbrough Council will disqualify any applicant who directly or indirectly seeks the support of any councillor, Elected Mayor, officer or the Head of Governors of any educational establishment for any appointment with the Council. The content of this paragraph is included in:
  - the Council's standard application form; and
  - recruitment information produced in those cases where application forms are not used.
- (ii) No councillor or the Elected Mayor will seek support for any person for any appointment with the Council.

## 2. Recruitment of the Head of Paid Service, Executive Directors, Strategic Directors and Assistant Directors

Where Middlesbrough Council proposes to appoint an officer within the Scheme of Conditions of Service of the Joint Negotiating Committee for Chief Officers of Local Authorities, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned (the Job Description); and
  - (ii) the qualifications and qualities to be sought in the person to be appointed (a Person Specification);
- (b) 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;
- (c) ensure that the provisions of paragraph 1 above are brought to the attention of potential applicants and that the Job Description and Person Specification are made available to them.

3. **Appointment of Head of Paid Service**

- (a) The appointment of the Head of Paid Service will be made by an Appointment Committee of 7 members nominated annually by the Council and will include the Elected Mayor, Deputy Mayor and the relevant portfolio holder. The appointment of the Head of Paid Service will be approved by the full Council following the recommendations of the Appointment Committee.
- (b) The full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been received from any member of the Executive, within three days of notification of the recommended candidate.

4. **Appointment of Executive/Strategic/Assistant Directors, Monitoring Officer, and Chief Finance Officer**

- (a) The appointment of Executive/Strategic/Assistant Directors, the Monitoring Officer, and the Chief Finance Officer will be made by the committee referred to in Rule 3 above, unless such appointment has been made by Council.
- (b) An offer of employment to these posts shall only be made where no well-founded objection has been received from any member of the Executive.

5 **Other appointments**

**Officers below Strategic/Assistant Directors.** Appointment of officers below Strategic/Assistant Directors (other than assistants to political groups and assistant to the Elected Mayor) will be undertaken by appropriate line managers in accordance with the Council's Recruitment and Selection Procedure. Appointments below the level of Strategic/Assistant Directors may not be made by members.

6. **Assistants to Political Groups.** Appointment of an assistant to a political group shall be made in accordance with the following:

- (a) In this paragraph a post of assistant to political group means a post to which Section 9 of the Local Government and Housing Act 1989 applies and any words or expressions also used in that Section shall be interpreted as they would be for the purposes of this Section;
- (b) No appointment to a post of assistant to a political group shall be made unless the Council shall have resolved to allocate a post of professional assistant to each of the political groups of the Council which qualify for one;
- (c) No allocation of a post as assistant to a political group shall be made to a political group which does not qualify for one;
- (d) Not more than one post of assistant to a political group shall be allocated to any one political group;
- (e) Any decision required to be taken in the appointment process shall be taken by the Head of Paid Service or their nominee after consultation with the Leader of the Party to which the post is allocated (or their nominee) who shall be entitled to attend any interviews relating to the appointment.

7. **Assistant to the Elected Mayor.**

An assistant to the Elected Mayor may be appointed only by the Elected Mayor in accordance with the relevant regulations.

**8. Council responsible for appointment but not employing**

Appointments where the Council is responsible for appointing but not employing the post holder will be undertaken by the Lead Officer for that area of work in line with the relevant guidance or the Council's Recruitment and Selection Procedure.

**9. Disciplinary Action**

**(a) Statutory designated officers**

In respect of the following officers:

- Head of Paid Service;
- Monitoring Officer; and
- Chief Finance Officer,

any disciplinary/dismissal procedure will follow the process as set out in the schedule to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 or any superseding legislation).

**(b) Directors and Strategic/Assistant Directors**

Disciplinary/dismissal action in relation to such officers will be applied in accordance with the provisions of Part Two (III) of the Scheme of Conditions of the Joint Negotiating Committee for Chief Officers of Local Authorities.

**(c) Other Employees**

Councillors will not be involved in the disciplinary action (including dismissal) taken against any employee below the level of Strategic/Assistant Directors except:

- where such involvement is necessary for any investigation or inquiry into alleged misconduct; or
- as a member of the Council's Staff Appeals Committee for the purpose of hearing appeals.

## **PART 4**

# **MEMBERS' ALLOWANCES SCHEME 1 APRIL 2015**



## MIDDLESBROUGH BOROUGH COUNCIL

### MEMBERS' SCHEME OF ALLOWANCES 2015/16

That Middlesbrough Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following Scheme:

1. This Scheme may be cited as the Middlesbrough Borough Council Members' Allowances Scheme, and shall have effect for the year commencing on 1<sup>st</sup> April 2015 and subsequent years, unless amended by the Council.
2. In this Scheme:  
“**Councillor**” means a Member of the Middlesbrough Borough Council who is an elected Councillor or Elected Mayor and where appropriate, a Co-opted Member;  
“**year**” means the 12 months ending with 31<sup>st</sup> March.
3. Basic Allowance  
  
Subject to paragraphs 8, 10 and 11 a basic allowance of £6,130, shall be paid to each elected Councillor for the year 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016.
4. Special Responsibility Allowances
  - 4.1 For each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are specified in Schedule 1, PROVIDED THAT no Member shall be entitled to receive more than one Special Responsibility Allowance.
  - 4.2 Subject to paragraphs 8 and 10 the amount of each such allowances shall be the amount specified against that special responsibility in that Schedule.
  - 4.3 A special responsibility allowance relating to the duties of a Political Group Leader shall be payable to the leader of the majority Group and to the leaders of the two largest minority Groups, where each of the minority Groups comprise at least 10% of the total number of Members of the Council.
  - 4.4 Where only one of the two largest minority Groups comprise at least 10% of the total number of Members of the Council, a special responsibility allowance relating to the duties of political Group leader shall be payable to the leader of the majority Group and to the largest minority Group.
  - 4.5 Where neither of the two largest minority Groups comprise 10% of the total number of Members of the Council, a special responsibility allowance relating to the duties of political Group leader shall be payable to the leader of the majority Group and to the leader of the largest minority Group.
  - 4.6 Where neither of the two largest minority Groups comprise 10% of the total number of Members of the Council, and the two largest minority Groups have the same number of Members of the Council, a special responsibility allowance relating to the duties of political Group leader shall be payable to the leader of the majority Group and to such other Group leaders as determined by Council.

## 5. Travelling and Subsistence Allowance – Councillors

- 5.1 A Councillor shall be entitled to receive appropriate travel and subsistence allowances where they necessarily incur expenditure on travel or subsistence in order to perform an approved duty.
- 5.2 The amount of the allowance payable to a Member in respect of subsistence shall be the same as that approved by the Authority in respect of officers of the Council who are paid officer rates.
- 5.3 The allowance payable shall be increased or decreased to the same extent as determined by the Authority in respect of officers.
- 5.4 The allowance payable to a Member in respect of travel shall be paid at the Inland Revenue rate (45p per mile).
- 5.5 For the purposes of this paragraph approved duties shall include all those duties which are specified in Part I of Schedule 2 to this Scheme.

## 6. Travelling and Subsistence – Co-opted Members

- 6.1 A Co-opted Member shall be entitled to receive appropriate travel and subsistence allowances as specified in Part II of Schedule 2 to this Scheme.

## 7. Dependent Carers Allowance

- 7.1 A Councillor or Co-opted Member shall be entitled to receive a child care allowance of up to a maximum of £6.70 per hour where they have necessarily incurred that expenditure in respect of a child who is looked after by a registered provider whilst the Councillor or Co-opted Member is carrying out an approved duty.
- 7.2 A Councillor or Co-opted Member shall be entitled to receive a carer's allowance of up to a maximum of £11.25 per hour where they have necessarily incurred that expenditure in respect of an adult who is looked after by a registered provider whilst the Councillor or Co-opted Member is carrying out an approved duty.
- 7.3 The Child Care Allowance referred to in paragraph 7.1 shall be increased in line with any increase in the national minimum wage.
- 7.4 The Adult Care Allowance referred to in paragraph 7.2 above shall be increased in line with any increase in the maximum hourly rate as charged by the independent care sector in respect of providing adults with home care.
- 7.5 For the purposes of this paragraph an approved duty is any duty listed in Part I of Schedule 2 to this Scheme.

## 8 Suspension and Disqualification

- 8.1 No Councillor, including Co-opted Members shall be entitled to, nor receive, any Basic Allowance, Special Responsibility Allowance, Travel and Subsistence Allowance, Dependent Carers Allowance or Co-optees Allowance whilst they are suspended or disqualified.
- 8.2 Any payment of any allowance referred to in paragraph 9.1 which has been paid to a Member or Co-opted Member in respect of a period during which the Councillor or Co-

opted Member has been suspended or disqualified shall be repaid by the Councillor in accordance with a direction issued by the Chief Finance Officer.

9. Pensions

9.1 The Councillors specified in Schedule 3 to this Scheme shall be entitled to pensions in accordance with a scheme made under Section 7 of the Superannuation Act 1972, or any re-enactment thereof.

9.2 The allowances to be treated as amounts in respect of which pensions are payable are those specified in Schedule 3 to this Scheme.

10. Renunciation

A Councillor may by notice in writing given to the Chief Finance Officer, elect to forego any part of his entitlement to an allowance under this Scheme.

11. Part-year Entitlements

11.1 The provision of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility where, in the course of a year, this Scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

11.2 If an amendment to this Scheme changes the amount to which a Councillor is entitled by way of a basic allowances or a special responsibility allowance, then in relation to each of the periods:

- a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or
- b) beginning with the day on which an amendment takes effect and ending with the day that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

11.3 Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.

11.4 Where this Scheme is amended as mentioned in sub-paragraph 11.2, and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph 11.2(a), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which their term of office as a Councillor subsists bears to the number of days in that period.

11.5 Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole

the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.

- 11.6 Where a remunerated chairperson has been absent due to exceptional circumstances, and another Member acts as chair for more than 50% of the meetings in any Municipal Year, then the person who has acted as chair shall be remunerated, and the entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- 11.7 Where this Scheme is amended as mentioned in sub-paragraph 11.2 and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 11.2(a) of that paragraph any such responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.
- 11.8 Where a scheme of allowances is amended, the Council can choose to apply any amendment retrospectively to the beginning of the financial year in which the amendment is made.

## 12 Claims and Payments

12.1 Payments of allowances shall be made as follows:

- |    |                                    |         |
|----|------------------------------------|---------|
| a) | Basic Allowances:                  | Monthly |
| b) | Special Responsibility Allowances: | Monthly |
| c) | Travel and Subsistence Allowance:  | Monthly |
| d) | Dependent Carers Allowance:        | Monthly |
| e) | Co-optees Allowance:               | Monthly |

12.2 All payments shall be made direct to a Bank or Building Society.

12.3 The Chief Finance Officer shall have authority to agree a different frequency of payment with an individual Member on request.

**THE COMMON SEAL OF THE COUNCIL OF THE  
BOROUGH OF MIDDLESBROUGH WAS  
HEREUNTO AFFIXED IN THE PRESENCE OF:**

**Signed:**

**Date:**

## SCHEDULE 1

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances (such amounts to be varied in accordance with any variation made to the basic allowance)

<u>OFFICE</u>	<u>ALLOWANCE</u>
Mayor (Basic Allowance x 10)	61,300
Deputy Mayor (Basic Allowance x 3)	18,390
Executive Members (Basic Allowance x 2)	12,260
Assistant Executive Members (Basic Allowance x 1)	6,130
Chair of Overview & Scrutiny Board (Basic Allowance x 2)	12,260
Chair of Licensing Committee (Basic Allowance x 1.5)	9,200
Chair of Planning & Development Committee (Basic Allowance x 1.5)	9,200
Chair of the Council (Basic Allowance x 1)	6,130
Chair of Corporate Affairs and Audit Committee (Basic Allowance x 1)	6,130
Chairs of Scrutiny Panels (Basic Allowance x 1)	6,130
Chair of Staff Appeals Committee (Basic Allowance x 1)	6,130
Vice Chair of the Council (Basic Allowance x 0.5)	3,070
Chair of Teesside Pension Fund & Investment Panel (Basic Allowance x 0.5)	3,070
Political Group Leaders:	
Majority Group (Basic Allowance x 1.5)	9,200
Largest Minority Groups - maximum x 2 providing they have 10% of Council membership (Basic Allowance x 0.5)	3,070

## SCHEDULE 2

### TRAVEL & SUBSISTENCE ALLOWANCES

#### Part 1      **Duties that may qualify for Travelling & Subsistence Allowances**

- a) the attendance at a meeting of the Authority or of any Committee or Sub Committee of the Authority, or of any other body to which the Authority makes appointments or nominations, or of any Committee or Sub Committee of such a body;
- b) the attendance at any other meeting, the holding of which is authorised by the Authority, or a Committee or Sub Committee of the Authority, or a Joint Committee of the Authority and one or more Local Authority within the meaning of Section 270(1) of the Local Government Act 1972, or a Sub Committee of such a Joint Committee provided that:
  - (1) where the Authority is divided into two or more political groups it is a meeting to which Members of at least two such groups have been invited; or
  - (2) if the Authority is not so divided, it is a meeting to which at least two Members of the Authority have been invited;
- c) the attendance at a meeting of any association of Authorities of which the Authority is a Member;
- d) the attendance at a meeting of the Executive or a meeting of any of its Committees, where the Authority is operating executive arrangements;
- e) the performance of any duty in pursuance of any standing order made under Section 135 of the Local Government Act 1972 requiring a Member or Members to be present while tender documents are opened;
- f) the performance of any duty in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises;
- g) the performance of any duty in connection with arrangements made by the Authority for the attendance of pupils at any school approved for the purposes of Section 342 (approval of non-maintained special schools) of the Education Act 1996, and
- h) the carrying out of any other duty approved by the Authority, or any duty of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the Authority or of any of its Committees or Sub Committees. For the purpose of this Section approved duties shall include the following:
  - (1) travel in connection with Scrutiny site visits or investigations;
  - (2) authorised attendance at Seminars or Conferences;
- i) In cases of urgency, the Monitoring Officer is authorised to approve duties where there is insufficient time to report to Corporate Affairs and Audit Committee.

#### Part II      **Co-opted Members Travelling & Subsistence Allowances**

- a) Co-opted Members of the following Council bodies shall be entitled to receive a combined travel & subsistence allowance as specified in paragraph (b) following production of a signed declaration that expenses had been incurred:
  - (1) Scrutiny Committees (including Overview & Scrutiny Board, Scrutiny Panels and Scrutiny Working Groups);
  - (2) Standards Committee (including Sub Committees and Panels)
  - (3) The Independent Panel on Members' Remuneration, and
  - (4) Teesside Pension Fund & Investment Panel
- b) The amount of the combined Travel & Subsistence Allowance shall be £10 per meeting.

**SCHEDULE 3**

**PENSIONS**

**MEMBERS**

None

**ALLOWANCE**

Nil

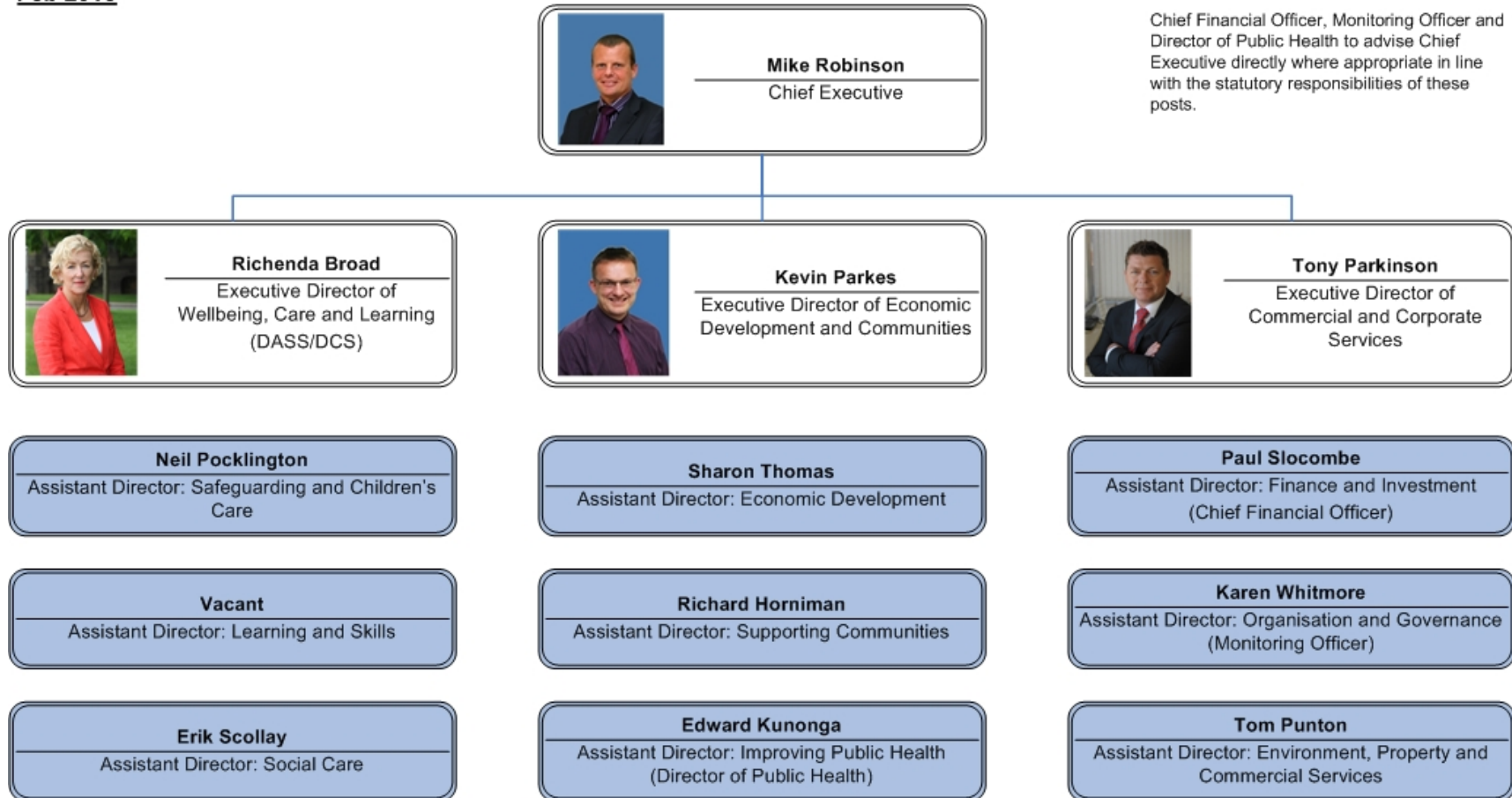
# **PART 5**

## **MANAGEMENT STRUCTURE**



# Organisational structure

## Senior Management Structure Feb 2015



# **PART 6**

## **CODES AND PROTOCOLS**

# **MEMBERS' CODE OF CONDUCT**

# Middlesbrough Borough Council

## 2015 Code of Conduct for Members

### 1. Principles of Public Life

This Code of Conduct has been prepared to comply with the seven principles in public life:

#### **(i) Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

#### **(ii) Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **(iii) 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.

#### **(iv) 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.

#### **(v) 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.

#### **(vi) Honesty**

Holders of public office have a duty to declare any private interest relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **(vii) Leadership**

Holders of public office should promote and support these principles by leadership and example, and should act in a way that secures or preserves public confidence.

### 2. Application

2.1. This Code of Conduct applies to you whenever you are acting in your capacity as a member of Middlesbrough Borough Council, including:

at formal meetings of the Council, its Committees and Sub-Committees, its Executive and Executive Committees;

2.2. when acting as a representative of the authority;

- 2.3. in taking any decision as an Executive member or a Ward Councillor;
- 2.4. in discharging your functions as a Ward Councillor;
- 2.5. at briefing meetings with officers;
- 2.6. at site visits;
- 2.7. when corresponding with the authority other than in a private capacity;
- 2.8. when it would appear to an impartial bystander that you are acting in your capacity as a Councillor; and
- 2.9. when you are using information which you have gained in your capacity as a Councillor.

### **3. General Conduct**

You must:

- 3.1. provide leadership to the authority and communities within its area, by personal example;
- 3.2. respect others and not bully any person;
- 3.3. recognise that officers (other than political assistants) are employed by and serve the whole authority;
- 3.4. respect the confidentiality of information which you receive as a member:
  - 3.4.1. not disclosing confidential information to third parties unless you have acted in accordance with the procedure set out in Appendix 2; and
  - 3.4.2. not obstructing third parties' legal rights of access to information;
- 3.5. not conduct yourself in a manner which is likely to bring the authority or the office of Councillor into disrepute;
- 3.6. use your position as a member in the public interest and not for personal advantage;
- 3.7. accord with the authority's reasonable rules on the use of public resources for private and political purposes;
- 3.8. exercise your own independent judgement, taking decisions for good and substantial reasons:
  - 3.8.1. attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups;
  - 3.8.2. paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer; and

- 3.8.3. stating the reasons for your decisions where those reasons are not otherwise apparent;
- 3.9. account for your actions, particularly by supporting the authority's scrutiny function;
- 3.10. ensure that you and the authority act within the law;
- 3.11. be honest in your dealings with other members, officers and the public; and;
- 3.12. use social media responsibly.

#### **4. Disclosable Pecuniary Interests**

You must:

- 4.1. comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest;
- 4.2. ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests;
- 4.3. make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent;
- 4.4. "Meeting" means any meeting organised by or on behalf of the authority, including:
  - 4.4.1. any meeting of the Council, or a Committee or Sub-Committee of Council;
  - 4.4.2. any meeting of the Executive and any Committee of the Executive;
  - 4.4.3. in taking a decision as a Ward Councillor or as a Member of the Executive;
  - 4.4.4. at any briefing by officers; and
  - 4.4.5. at any site visit to do with business of the authority.

#### **5. Other Interests**

- 5.1. In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 5.2. You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where:
  - 5.2.1. a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your

family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

- 5.2.2. it relates to or is likely to affect any of the interests listed in the Table in Appendix 1 to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

## **6. Gifts and Hospitality**

- 6.1. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the authority.
- 6.2. The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 6.3. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

## Appendix 1

### Disclosable Pecuniary Interests

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

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—



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

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

For this purpose –

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

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

## Appendix 2

### Disclosure of Confidential Information

You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe or ought reasonably to be aware, is of a confidential nature, except where:

- 1) you have the consent of the person authorised to give it;
- 2) you are required by law to do so;
- 3) the disclosure is made to a third party for the purpose of obtaining professional legal advice, provided that the third party agrees not to disclose the information to any other person; or
- 4) the disclosure is:
  - a) reasonable and in the public interest; and
  - b) made in good faith and in compliance with the reasonable requirements of the authority; and
  - c) you have consulted with the authority's Monitoring Officer prior to its release.

# **OFFICERS' CODE OF CONDUCT**

# CODE OF CONDUCT

## Employees' Code of Conduct

The attention of all employees, whether permanent or temporary is drawn to the following provisions relating to private work undertaken by employees and other matters of conduct.

### 1. Standards

Local Government employees are expected to provide the highest possible standard of service to the public, and where it is part of their duties to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures, and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service, and any impropriety or breach of procedure.

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.

The Council expects good standards of behaviour from all of its employees towards fellow employees, Councillors, service users and members of the Public. The Council recognises the importance of treating everyone with equal dignity and respect, and will not tolerate harassment discrimination or bullying.

This policy has been reviewed against the Bribery Act 2010.

### 2. General Conduct

Subject to its rights under the conditions of appointment of employees not being prejudiced, the Council does not wish to limit unduly the activities of employees in their leisure time.

The Council does, however, require that efficiency and due performance of official duties shall not be impaired by private work in leisure time, and it requires at all times to be satisfied that its interests are not being detrimentally affected in this respect.

The Council must be in a position to rebut with confidence any allegation that the integrity of its administration is being impaired because of the leisure time activities of any of its employees. Implicit in this is the requirement that there must be no question of employees undertaking activities in circumstances which might lead to suspicion of undue or improper favour being granted, to anyone including elected members or undue or improper influence being exercised, in relation to contracts of any kind, or in relation to any consent, permission, licence, etc., which members of the public seek from the Council. Conduct outside of working hours which gives rise to criminal prosecution will be considered in accordance with the Council's disciplinary policy, and may in exceptional cases lead to dismissal.

### 3. Disclosure of Information

Employees should not use any 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 a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by law.

#### **4. Private Paid Work**

The following conditions must be strictly observed by any employee who proposes to undertake, or who undertakes private work for any person, firm or company:

- (a) Employees graded above Band I (i.e. above spinal column point 30) shall devote their whole time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without the consent of the Strategic/Assistant Directors, after consultation with the Monitoring Officer.
- (b) Private work must not be undertaken during working hours, and it must not be undertaken on official premises even after working hours.
- (c) In addition to there being no impairment of the proper execution of the employee's official duties, there must not be any interference with any requirement to work overtime on such duties.
- (d) Private work that may be subject to the Council's statutory supervision or consent must not be undertaken.
- (e) Private work must not be undertaken for any person, firm or company who is known by the employee to be currently or periodically, an applicant to the Council for a statutory consent or permission, for a discretionary licence (excluding licences which are issued automatically subject to the application being in order), or for any other purpose, where the application is or would be dealt with by the department in which the employee is serving. Employees proposing to undertake private work for any person, firm or company are responsible for ascertaining from them whether they are applicants to the Council for a statutory consent or permission.
- (f) Private work must not be undertaken for any person, firm or company in a contractual relationship with, or commissioned by, the Council, or concerned in any property transaction with the Council, or for any person known or believed by the employee to be connected with such a firm or company, where the employee undertaking the private work is serving in a department materially concerned with such a contractual relationship, commission or property transaction. Employees proposing to undertake private work for any person, firm or company are responsible for ascertaining from them whether any contractual or commission relationship with the Council exists, or whether they are concerned in any property transaction with the Council.
- (g) Private work must not be undertaken by an employee for another employee responsible for supervising that employee or whom the employee supervises.
- (h) Private work must not be undertaken for any person, firm or company with whom an employee deals in the course of their official duty.
- (i) Council equipment, vehicles or goods must not be used to undertake private work.

- (j) There are some secondary types of employment that an employee could undertake in their own time without creating any conflict of interest, though the employee would have to make quite sure that the commitments of the job stayed below the level at which efficiency in their work for the Council could be impaired.
- (k) Teaching and lecturing may be acceptable but special safeguards need to be put in place. Where such activity would involve the use of special knowledge gained in the Council's employment, permission must be sought from the employee's Strategic/Assistant Directors; where any fee is received for such work it must be paid over to the Council unless prior arrangements have been agreed otherwise. Similarly, where the activity could have a significant public impact in relation to the Council or its functions, prior approval must be obtained from the Strategic/Assistant Directors.

## 5. Private Unpaid Work

If an employee wishes to undertake private work for which no payment or other reward is made but which would otherwise be prohibited under paragraph 2 above, the employee must inform their Strategic/Assistant Director who may relax some of the conditions in clause 4 above, as may be considered appropriate.

## 6. Interest of Employees in Contracts

Standing Order 22 of the Council, contained in the Middlesbrough Borough Council Financial and Contract Procedure Rules, under this heading places the following requirements on Officers:

***“The proper employee of the Council shall record in a book to be kept for the purpose, brief particulars of any notice given by an employee of the Council under Section 177 of the Local Government Act 1972, of a pecuniary interest in a contract and the book and such notices shall be open during office hours for the inspection of any member of the Council”.***

***Section 117 of the Local Government Act 1972 refers to the need for employees to declare their interest and the interest of spouses in contracts negotiated between the Council and third parties. This particular Section specifies as follows:***

***“If it comes to the knowledge of an employee employed, whether under this Act or any other enactment by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he himself is a party), has been, or is proposed to be, entered into by the Authority or any Committee of the Authority, he shall as soon as practicable give notice in writing to the Authority of the fact that he is interested therein”.***

An employee shall be treated as having indirectly a pecuniary interest in a contract or proposed contract, if:

- (a) They or any nominee of theirs is a member of a Company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or

- (b) They are a partner, or are in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed to be also an interest of the other.

NOTE: Where the Act refers to “he” you should read “he” or “she”.

Any employees affected by this Act should inform the Monitoring Officer through their Strategic/Assistant Directors.

## **7. Writing of Books**

The writing of books or articles for payment on subjects relating to an employee’s work for the Council requires the permission of the Council.

- (a) No person employed by the Council in any capacity shall publish, or authorise the publication of, any book or article written by that person either wholly or in collaboration with any other person or persons, in which the title page, preface, or any other part there appears to be, any indication that the writer is an employee of or is otherwise connected with the Council, unless a statement appears in a prominent position in such book or article to the effect that the opinions are those of the author and do not necessarily represent the opinions of the Council and that the Council accepts no responsibility for the author’s opinions or conclusions.
- (b) No such persons shall, without permission from their Strategic/Assistant Directors make available to a newspaper, solely or jointly with any other person or persons, any communication in which there is an indication that the person is an employee of, or otherwise connected with, the Council.
- (c) Paragraphs 7 (a) and (b) shall not apply to books and articles on purely technical or scientific subjects and persons employed by the Council shall be at liberty to write and publish books and articles on these subjects and, if they so wish, to indicate therein that they are officers of, or otherwise connected with the Council, provided that it is clearly stated that the opinions are those of the author and do not necessarily represent the opinions of the Council.

## **8. Broadcasting**

Any employee broadcasting on a subject connected with the work of the Council shall be required to obtain beforehand the permission of the appropriate Strategic/Assistant Directors.

## **9. Technology Platforms, Websites and Online Tools – Refer to Social Media Policy**

The policy covers the use of social networking applications, by Council employees, Elected Members and partners or other third parties (including contractors) on behalf of the Council.

The requirements of the policy apply to all uses of social networking applications for Council related purposes, regardless of whether the applications are hosted corporately or not. Consideration within the policy is also given to Council

representatives who are contributing in an official capacity to social networking applications provided by external organisations.

**10. Inventions by Employees**

Any employee who in the course of their employment with the Council produces an invention or design shall, at the request of the Council, assign the patent to the Council or, if the invention or design has not been patented, assist the Council in obtaining a patent in the name of the Council. It is not appropriate that patents should be taken out for the personal benefit of employees of the Council whose duty it is to devise improvements or to examine and report on the suggestions or inventions of others.

**11. Lost Property**

Any employee who either finds or has handed to them property which appears to be lost or abandoned on council premises, must give that property to their manager. Thereafter the property should be dealt with in accordance with the procedures specified by audit. Under Section 117 of the Local Government Act 1972 and officer shall not, under colour of his office or employment, accept any fee or reward whatsoever, which would include handing in any lost property.

**12. Relationships between Employees**

The relationship of landlord and tenant shall not either directly or indirectly be created or allowed between employees of the Council who are in any way responsible for each other's appointment, pay, promotion, discharge or dismissal.

**13. Appointment and other Employment Matters**

Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment that was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation 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 him or her.

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.

Employees who are subject to disciplinary proceedings, or who are the subject of review proposals or consultations, shall not canvass or otherwise seek the support of any Member or Members. Contravention shall be subject to the Council's disciplinary policy and may lead to dismissal.

**14. Prevention of Corruption, Gifts or Rewards - Refer to Gifts and Hospitality Policy**

The policy provides guidance to employees on the receiving of gifts, invitations and hospitality as well as the provision of gifts and hospitality to those outside Middlesbrough Council.

The Gifts and Hospitality policy applies to all employees of Middlesbrough Council, failure to adhere to the policy may be dealt with under the Council's disciplinary procedure



## **15. Sponsorship**

Where an outside organisation wishes to sponsor or is sought to sponsor a Council 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.

Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority 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.

## **16. Political Neutrality**

Employees serve the Authority as a whole. It follows that they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

Subject to the Authority's conventions, employees may also be required to advise political groups. They must do so in ways that do not compromise their political neutrality.

Employees, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraph 14 above.

Employees must at all times have regard to and act in accordance with the provisions of the "Protocol on Member/Officer Relations".

## **17. Separation of Roles during Tendering**

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

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 party or organisation.

Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **18. Freemasonry**

Employee's attention is drawn to the Council Minute 895 – 12.10.95 that states:

1. "That employees of the Council (except those employed at schools) be expected to record with the Executive Director (and Executive Directors with the Head of Paid Service) membership of Freemasonry."
2. "That it be a condition of service (except for those employed at schools) of Council employees that upon taking up posts they record with the Executive Director (and Executive Directors with the Head of Paid Service) membership of Freemasonry. Candidates for posts will not be asked and need not declare whether they are Freemasons."

## **19. Member/Officer Protocol**

Authorisation. Full Council 30.4.02.

### **Roles of Officers**

- (a) Officers are employed by and serve the whole Council. They advise the Council, the Executive, Council Committees and other Council bodies. They are responsible for ensuring that decisions are taken within the Law, in accordance with the Constitution, and that decisions are properly recorded and effectively implemented.
- (b) The Head of Paid Service is responsible for ensuring that Officers fully and effectively support Members. Officers are responsible to the Head of Paid Service and not to individual members of the Council; no matter what office they hold.
- (c) All Officers are required by Law to be politically neutral, and for senior officers this is enforced by way of the Local Government and Housing Act 1989.
- (d) There are statutory requirements in relation to the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. These responsibilities are detailed in Article 12 of the Constitution.
- (e) The Head of Legal Services will provide Legal advice to the Council and to the Executive.
- (f) The Head of Democratic Services will ensure that meetings of the Executive are properly planned, serviced and reported in accordance with legislative requirements and Council Rules of Procedure.
- (g) The Head of Democratic Services will ensure that all other meetings of the Council, its Committees and sub-Committees and all other Council bodies are properly planned, serviced and reported in accordance with legislative requirements and Council Rules of Procedure.

## **Officer Conduct**

- (a) Officers should always treat Members with respect and courtesy. Whenever conflict or disagreements arise, the Officer's line manager must deal with these professionally.
- (b) It is not enough for Officers to avoid actual impropriety. They must at all times avoid any occasion for suspicion and any appearance of improper conduct. Officers must declare to the Head of Paid Service or the Monitoring Officer any relationship with a member. This includes any relationship, which might be seen as influencing their work as an Officer, or influencing the work of the Member.
- (c) In this sense 'relationship' would include any family business or close personal relationships. It is not possible to define the exact range of relationships that would be considered as close or personal. Examples however would include a family or sexual relationship and regular social mixing, such as holidays or evenings out together.
- (d) Close personal relationships between Officers and Members can damage principles of mutual respect and professionalism. They can also, intentionally or accidentally, lead to the passing of confidential information. Such relationships can cause embarrassment to other Members and officers and can give rise to suspicion of favouritism. For these reasons personal relationships must be avoided, especially between Members and Officers who regularly, as part of their normal working role, offer advice or support to Members.

### **In their working relationships with Members, Officers will:**

- **Behave at all times in a professional manner**
- **Strive to develop mutual levels of trust with all Members**
- **Perform their duties efficiently and effectively with impartiality**
- **Maintain the highest standards of confidentiality**

## **20. Equality Statement**

The Code of Conduct policy applies fairly and equally to all employees irrespective of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, marriage and civil partnership.

## **21. Reports containing information that is exempt.**

For a document that contains exempt information, any breach of confidentiality of its contents, or of any committee discussions thereon, or unauthorised disclosure to a third party, by any means, may be a disciplinary offence for staff.

## **22. Reviews**

Officers within the scope of any review must not canvass or otherwise seek the support of any councillor in relation to that review, or their or their colleagues' personal circumstances. Officers canvassing councillors may be subject to disciplinary proceedings under the Council's Disciplinary Policy.

# **PROTOCOL FOR MEMBERS AND OFFICERS ON GIFTS AND HOSPITALITY**

## **PROTOCOL FOR MEMBERS AND OFFICERS ON GIFTS AND HOSPITALITY**

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### **1. BACKGROUND**

Both members and officers should avoid putting themselves in a position where their integrity is called into question because of any financial or other impropriety. As well as avoiding actual impropriety it is also essential to avoid giving the impression or appearance of impropriety. To achieve this, the Council has adopted this Protocol which is applicable to both members and officers.

### **2. LEGAL POSITION**

2.1 The Public Bodies Corrupt Practices Act, 1989 provides that it is an offence for any employee or member to accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing, or not doing, something in respect of any matter or transaction involving the Council. This offence can carry up to 7 years imprisonment.

2.2 The Prevention of Corruption Act, 1916 provides that where such a gift, loan etc. is received by an employee or member from a person seeking a contract with the Council, then the gift is deemed to have been received corruptly. This has the effect of shifting the balance of proof onto the giver and receiver, i.e. they would have to prove that they did not act dishonestly.

2.3 The Local Government Act, 1972 further provides that an employee shall not, under colour of their office, accept any reward or fee other than their proper remuneration.

### **3. GENERAL PRINCIPLES**

3.1 The purpose of this Protocol is to :

- (a) outline the principles which a member or an officer should apply whenever they have to decide whether it would be proper to accept any gift or hospitality,
- (b) establish a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it,
- (c) establish a procedure for declaring any gift or hospitality, which you receive, and for accounting for any gift.

This Protocol does not apply to any offer of hospitality, which may be provided by this Council.

3.2 You must never solicit or invite an offer of a gift or hospitality in connection with your position as an officer or a councillor. You should also take care to avoid giving any indication that you might be open to such an improper offer.

### **4. CIRCUMSTANCES WHEN HOSPITALITY OR A GIFT CAN NEVER BE ACCEPTED**

4.1 **Never accept a gift or hospitality as an inducement or reward for anything you do as an officer or a councillor**

You must always act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

Further, the authority's Code of Conduct for members provides that a councillor must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage of any person, including yourself.

The Officer Code of Conduct deals specifically with the Prevention of Corruption at paragraph 12.

#### **4.2 Never accept a gift or hospitality if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to the authority and to you as a councillor or officer as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- (ii) determination of licensing applications, planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination.
- (iii) Funding decisions, when the authority is determining a grant application by any person or organisation.

#### **4.3 Never accept a gift or hospitality, which puts you under an improper obligation**

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

### **5. CONSENT REGIMES**

#### **5.1 General consent provisions**

For clarity, the authority has agreed that, provided the principles set out in Section 4 are not breached, you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events, which are sponsored by Middlesbrough Council
- (iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.
- (v) a modest working lunch in the course of a business meeting in the offices of a third party where this is required in order to facilitate the conduct of that business.
- (vi) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority.
- (vii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority.
- (viii) Other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the officer or councillor deals with the gift strictly in accordance with the following procedure. The officer or councillor must, as soon as practicable after the receipt of the gift, pass it to the Monitoring Officer, together with a written statement identifying the information set out in Paragraph 5.2 below. The Monitoring Officer will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Elected Mayor's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Elected Mayor.

## 5.2 Special Consent Provisions

If you wish to accept any gift or hospitality which is not within any of the general consents set out in Paragraph 5.1, you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved.
- (iv) any work, permission, concession or facility, which you are aware that the person or organisation making the offer or invitation may seek from the authority.

- (v) any special circumstances, which lead you to believe that acceptance of the gift or hospitality, will not be improper.

You must not accept the gift or hospitality until you have received the appropriate consent.

## 6. REPORTING

- 6.1 Whenever a councillor accepts any gift or hospitality, which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraphs 5.2 above. A form for this purpose is attached to this Code. The Monitoring Officer will retain a copy of any such declaration in a register, which will be available for public inspection
- 6.2 In respect of councillors, even if the value of the gift or hospitality is less than £25, and you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.
- 6.3 The Members Office keep a register of gifts and hospitality and it is the responsibility of the officer receiving the gift or hospitality to ensure that it is recorded in the register.

## 7. GIFTS TO THE AUTHORITY

- 7.1 Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance or the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any disbenefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

## 8. DEFINITIONS

- 8.1 "Gift or hospitality" includes:
  - (i) the free gift of any goods or services.
  - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those, which are available to the general public.



- (iii) the opportunity to obtain any goods or services which are not available to the general public.
- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

8.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration
- (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

**MIDDLESBROUGH BOROUGH COUNCIL**

**Members' Declaration of Gifts and Hospitality**

*Please read the rules and guidance accompanying this form before completing it  
The form should be returned to the Head of Democratic Services.*

Name of Member .....

Give details of the gift/hospitality.....

.....

What is its estimated value? .....

When was the gift or invitation to hospitality received.....

Do you wish to accept or decline.....

Who is/was the recipient of the gift/hospitality? If not yourself, what is their relationship to you?

.....

Who made the offer? [individual/company/organisation etc.]

.....

Is the individual/company/organisation dealing with you or the Council in relation to any legal, statutory or enforcement matters, such as planning applications? If so, please give details

.....

.....

Are they asking to be added to the Council's tender or approved Contractors list?.....

Are they providing goods/services to the Council or hoping to do so in future?

.....

I certify that I have read the rules and guidance overleaf and that to the best of my knowledge, I have complied with them

Signature of Member ..... Date of Declaration .....

For Office Use Only

Date of Receipt.....

Note of any further action

.....

Annual Review by Monitoring Officer

.....

## **Gifts and Hospitality Guidance for Members**

The new Code of Conduct for Members includes mandatory requirements set out in the Local Authorities (Model Code of Conduct) (England) Order [2001, which sets out the minimum standards of conduct that Members must observe. One of these requirements relates to the receipt of gifts and hospitality and states:

“A member must within 28 days of receiving any gift or hospitality over the value of £25 provide written notification to the authority’s monitoring officer of the existence and nature of that gift or hospitality.”

**Failure to comply with this requirement will constitute a breach of the Code.**

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The Standards Committee of Middlesbrough Council has given the following guidance to Members on how to deal with offers of gifts and hospitality.

1. As an elected member, you are personally responsible for all decisions connected with your acceptance of any gift or hospitality and for avoiding the risk of damage to public confidence in local government.
2. You should treat with extreme caution any offer of gifts or hospitality made to you personally or partners/members of your family. Acceptance of inappropriate gifts or hospitality may lead to you being investigated.
3. Gifts or hospitality of nominal value in the course of Council business (eg, lunch/refreshments or a token promotional gift) may be accepted but always consider if they need to be declared.
4. Tactfully refuse any gift or hospitality, which might be perceived by the public as influencing your decisions or actions as an elected member. If the gifts are sent to you, arrangements for them to be appropriated to the benefit of the Council or to a charity nominated by the Council or returned by the Council.
5. Where the value of any gift or hospitality is over £25.00 you MUST declare receiving it within 28 days.
6. Where the value of any gift or hospitality is under £25.00 you may wish to declare receiving it.
7. Where an offer of any gift or hospitality is made but declined, you may wish to declare the offer.
8. Where the value of any gift or hospitality is substantially higher than £25.00 seek the approval of the Monitoring Officer before accepting it.
9. Any cash payments made to you in your capacity as an elected member, e.g. A token payment following a talk you have given or an appearance at an event should either be refused or, if intended for charity, paid via the Council. It is not appropriate to make the donation yourself.
10. Declarations must be made on this form and no other method of declaration is valid.
11. When making decisions, answer all of the questions on the form.
12. Give the completed form to the Head of Democratic Services who will check that it has been properly completed and add a serial number to the form. The register is open to the public and will be periodically reviewed by the Monitoring Officer and the Standards Committee.
13. If you are in any doubt about whether it would be appropriate for you to accept any gift or hospitality, decline it or seek the advice of the Head of Democratic Services on 729031.

# **MEMBER/OFFICER PROTOCOL**

## MEMBER / OFFICER PROTOCOL

### INTRODUCTION

Members and officers are both servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate. Officers are responsible to the Head of Paid Service of the Council and their job is to advise members and the Council, and to carry out the work of the Council as a whole. What is expected both of members and of officers are the highest levels of respect, objectivity, impartiality and honesty in undertaking their respective roles and in dealing with each other.

This Protocol aims to give guidance in respect of the complex relationships between members and officers of the Council. Given the wide range of these relationships, this Guidance cannot be prescriptive. Rather, it seeks to give guidance and offers a framework within which both members and officers should act.

Parliament has approved ten Principles of Good Conduct in public life. Middlesbrough Council believes that these are sound values which both officers and members should adhere to in undertaking their respective roles.

This Protocol has been approved by the Council's Standards Committee, and applies equally to the Elected Mayor, all members and all officers of the Council. It should be read in conjunction with all other current protocols.

### PROTOCOL

#### 1. Definitions

- 1.1. Unless the context indicates otherwise, references to the term *Council* include the Executive, Overview and Scrutiny committees, and other committees and sub-committees.
- 1.2. For the purposes of this protocol, the term *Executive* refers to the Elected Mayor and Executive.
- 1.3. Unless the context indicates otherwise, the terms *member* and *members* include non-elected (i.e. co-opted) members as well as elected councillors.
- 1.4. *Officers* and *staff* mean all persons employed by the Council.
- 1.5. *Senior officer* means members of the Corporate Management Team, Strategic/Assistant Directors, Monitoring Officer, Chief Finance Officer, and Head of Democratic Services.
- 1.6. *Chief Finance Officer* means the officer exercising the duties prescribed by law for the financial administration of the Council.

#### 2. Principles

- 2.1. Members and officers must at all times observe this protocol.
- 2.2. The protocol has been approved by the Council's Standards Committee which will monitor its operation.

- 2.3. The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
- 2.4. Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
- 2.5. Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work under the direction of the Council.
- 2.6. The Council has adopted codes of conduct for both members and officers. Both represent best practice. The Members' Code of Conduct follows the national code. The Code of Conduct is based on the general principles governing members' conduct which are enshrined in law. These are:
- Selflessness – serving only the public interest.
  - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
  - Objectivity – taking decisions on merit.
  - Accountability – to the public; being open to scrutiny.
  - Openness – giving reasons for decisions.
  - Personal judgement – reaching one's own conclusions and acting accordingly.
  - Respect for others – promoting equality; avoiding discrimination; respecting others (member/member, as well as member/officer).
  - Duty to uphold the law – not acting unlawfully.
  - Stewardship – ensuring the prudent use of the Council's resources.
  - Leadership – acting in a way which has public confidence.
- 2.7. The above principles underpin this protocol.
- 2.8. Officers are bound by the Council's code of conduct for staff and, in some cases, by the codes of their professional associations.
- 2.9. Breaches of this protocol by a member may result in a complaint to the Monitoring Officer if it appears that the Members' Code of Conduct has also been breached. Breaches by an officer might lead to disciplinary action which could, in serious cases, include dismissal.

### **3. The role of Members**

- 3.1. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s), including the Monitoring Officer.
- 3.2. Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.

- 3.3. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 3.4. Every elected member represents the interests of, and is an advocate for, their ward and individual constituents. Members represent the Council in their ward, respond to the concerns of constituents, meet with partner agencies, and often serves on local bodies.
- 3.5. Some members have roles relating to their position as members of the Executive, Overview and Scrutiny committees or other committees and subcommittees of the Council.
- 3.6. Members of the Executive can have individual delegated powers. They may determine matters within their portfolios, but implementation of their decisions is the responsibility of officers.
- 3.7. Members serving on Overview and Scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 3.8. Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 3.9. Some members may be appointed to represent the Council on local, regional or national bodies.
- 3.10. As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
- 3.11. Members are not authorised to instruct officers other than:
  - through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for members' use; where staff have been specifically allocated to give support to a member or group of members; and
  - in the case of political assistants.
- 3.12. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 3.13. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
- 3.14. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.
- 3.15. Members have a duty under their code of conduct:
  - to promote equality by not discriminating unlawfully against any person; and
  - and;

- to treat others with respect.

3.16. Under the code, a member must not when acting as a member or in any other capacity:

- bring the Council or their position as a member into disrepute, or
- use their position as a member improperly to gain an advantage or disadvantage for themselves or any other person.

#### **4. The role of officers**

4.1. Officers are responsible for giving advice to members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

4.2. Under the direction and control of the Council (including, as appropriate, the Executive, committees and sub-committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

4.3. Officers have a duty to implement decisions of the Council, the Executive, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.

4.4. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.

4.5. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

4.6. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public.

4.7. Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

#### **5. The relationship between members and officers: general**

5.1. The conduct of members and officers should be such as to instil mutual confidence and trust.

5.2. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

5.3. Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.

5.4. Members and officers should inform the Head of Paid Service, the Monitoring Officer or the Head of Democratic Services of any relationship which might be seen as unduly influencing their work in their respective roles.



- 5.5. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct.
- 5.6. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 5.7. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
- 5.8. With the exception of political assistants, officers work to the instructions of their senior officers, not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is personal or confidential, members should direct their requests through the Members' One Stop service.
- 5.9. Officers will do their best to give timely responses to members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members must avoid disrupting officers' work by imposing their own priorities.
- 5.10. Members will endeavour to give timely responses to enquiries from officers.
- 5.11. An officer shall not discuss with a member personal matters concerning themselves or another individual employee. This does not prevent an officer raising on a personal basis, and in their own time, a matter with their ward member.
- 5.12. Members and officers should respect each other's free (i.e. non-Council) time.
- 5.13. Officers within the scope of any review must not canvass or otherwise seek the support of any Member in relation to that review, or their or their colleagues' personal circumstances. Officers canvassing Members may be subject to disciplinary proceedings under the Council's Disciplinary Policy. Members approached by officers in these circumstances should refer the approach to the Monitoring Officer.

## **6. The Council as employer**

- 6.1. Officers are employed by the Council as a whole.
- 6.2. Members' roles are limited to:
  - the appointment of specified senior posts;
  - determining human resources policies and conditions of employment;
  - the appointment of political assistants;
  - hearing and determining appeals; and
  - disciplining statutory designated officers
- 6.3. Members shall not act outside these roles.
- 6.4. If participating in the appointment of officers, members should:
  - remember that the sole criterion is merit (other than in the case of

- political assistants where political consideration may apply),
- never canvass support for a particular candidate,
- not take part where one of the candidates is a close friend or relative,
- not be influenced by personal preferences, and not favour a candidate
- by giving them information not available to the other candidates.

6.5. A member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the member has had a working relationship.

## **7. Elected Mayor and officers**

7.1. Officers will respect the position of Elected Mayor and provide appropriate support.

## **8. Executive members and officers**

8.1. Executive members will take decisions in accordance with the constitution and will not otherwise direct staff. Senior officers will be responsible for instructing staff to implement the Executive's decisions.

8.2. In addition to individual members of the Executive, senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to submit papers to the Executive as a whole or to individual Executive members for consideration.

8.3. Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including that of the Monitoring Officer and Chief Finance Officer, and will not direct officers in the framing of recommendations.

8.4. Before any formal decisions with a financial implication are taken by the Executive, the Finance Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:

- are aware of the proposed decision,
- have the opportunity to offer advice, and
- are subsequently able properly to authorise the financial transactions needed to implement decisions.

8.5. An individual Executive member who is minded to write or commission a report or to make a decision about a matter within their portfolio must ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.

8.6. Executive members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

8.7. Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

## **9. Overview and scrutiny members and officers**

- 9.1. Chairs and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with Chairs, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 9.2. An Overview and Scrutiny committee or its Chair acting on its behalf may require officers to attend overview and scrutiny meetings. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 9.3. When making requests for officer attendance, Overview and Scrutiny Members shall have regard to the workload of officers.
- 9.4. It is recognised that officers required to appear before an Overview and Scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – in the first instance from the Council’s Scrutiny support team.
- 9.5. Subject to 72 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.
- 9.6. Officers must also be prepared to justify decisions they have taken under delegated powers.
- 9.7. In giving evidence, officers must not be asked to give political views.
- 9.8. Officers should respect members in the way they respond to members’ questions.
- 9.9. Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.
- 9.10. Overview and Scrutiny proceedings must not be used to question the capability or competence of officers. Chairs and members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an Overview and Scrutiny function.
- 9.11. In exercising the right to ‘call-in’ a decision of the Executive, members must seek officer advice if they consider the decision is contrary to the Council’s approved plans, policies or frameworks, or is unlawful.

## **10. Members of other committees or sub-committees and officers**

- 10.1. The appropriate senior officers will offer to arrange regular informal meetings with Chairs, vice-chairs, and spokespersons of committees and subcommittees.
- 10.2. Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
- 10.3. Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

10.4. At some committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the Chair. In these circumstances it is the officer, not the Chair, who takes the action and is responsible for it. A Chair has no legal power to take decisions on behalf of a committee or sub-committee, neither should they apply inappropriate pressure on the officer.

#### **11. Party groups and officers (excluding political assistants)**

11.1. Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.

11.2. Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not members of the Council.

11.3. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

11.4. Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

11.5. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because they have attended or provided information to the meeting.

11.6. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

11.7. In their dealings with party groups, officers must treat each group in a fair and even-handed manner.

11.8. Members must not do anything which compromises or is likely to compromise officers' impartiality.

11.9. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if they feel it is no longer appropriate to be there.

11.10. An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. They must give substantially the same advice to each.

11.11. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on their behalf.

- 11.12. An officer should be given the opportunity of verifying comments and advice attributed to them in any written record of a party group meeting.
- 11.13. No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 11.14. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as members.
- 11.15. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Head of Paid Service, the Monitoring Officer or the Head of Democratic Services, and the relevant party group leader.

## **12. Political assistants**

- 12.1. These officers have been appointed by the Council exclusively to provide support to each of the party groups. Their function is to assist the interests and work of the group to which they have been assigned. This is in contrast to all other staff whose duty is to serve the Council as a whole.
- 12.2. Political assistants will be treated in accordance with and expected to observe all codes, policies and practices relating to the Council's staff. This includes the courtesy and consideration which the Council expects its officers to show to one another.
- 12.3. Except for their immediate secretarial and clerical support, the assistants will have no line management responsibility or power of direction over other staff.
- 12.4. Political assistants are not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the party group to which they have been assigned.
- 12.5. The level of access to Council documents and information shall be that enjoyed by members.

## **13. Local members and officers**

- 13.1. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the need to keep local members informed, thus allowing members to contribute to the decision making process and develop their representative role.
- 13.2. This need is particularly important:
- during the formative stages of policy development, where practicable,
  - in relation to significant or sensitive operational matters,
  - whenever any form of public consultation exercise is undertaken,
  - during an Overview and Scrutiny investigation.
- 13.3. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.

- 13.4. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meeting as a matter of course.
- 13.5. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:
- an officer may attend but is not obliged to do so, and
  - the meeting may be held in Council-owned premises.
- 13.6. No such meetings should be arranged or held in the immediate run-up to Council elections.
- 13.7. Whilst support for members' ward work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:
- the surgeries must be open to the general public, and
  - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
- 13.8. Officers must never be asked to attend ward or constituency political party meetings.
- 13.9. It is acknowledged that some Council staff (e.g. those providing dedicated support to members) may receive and handle messages for members on topics unrelated to the Council. Whilst these will often concern, for example, diary management, care should be taken to avoid Council resources being used for private or party political purposes.
- 13.10. In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale, and may need to seek instructions from their managers.

#### **14. Members' access to documents and information**

- 14.1. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution.
- 14.2. Members may request such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- it is in the public domain, and
  - it is not barred by the Data Protection Act from being given.
- 14.3. Every member of the Executive, an Overview and Scrutiny committee, and/or any other committee or sub-committee has a right to inspect documents about the business of that Overview and Scrutiny committee, other committee or subcommittee or the Executive.

- 14.4. A member who is not a member of a specific Overview and Scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:
- they can demonstrate a reasonable need to see the documents in order to carry out their role as a member (the “need to know” principle), and
  - the documents do not contain “confidential” or “exempt” information as defined by the law.
- 14.5. Disputes as to the validity of a member’s request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek their advice if in any doubt about the reasonableness of a member’s request.
- 14.6. A member should obtain advice from the Monitoring Officer in circumstances where they wish to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act,
  - where the subject matter is one in which they have a personal or prejudicial interest as defined in the Members’ Code of Conduct.
- 14.7. Information given to a member must only be used for the purpose for which it was requested.
- 14.8. It is an accepted convention that a member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 14.9. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 14.10. When requested to do so, officers will keep confidential from other members advice requested by a member.
- 14.11. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **15. Media relations**

- 15.1. All formal relations with the media must be conducted in accordance with the Council’s agreed media protocol and the law on local authority publicity.
- 15.2. Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 15.3. Officers will keep relevant members informed of media interest in the Council’s activities, especially regarding strategic or contentious matters.
- 15.4. Before responding to enquiries from the media, officers shall ensure they are authorised to do so, and follow the media protocol.
- 15.5. Likewise, officers will inform the Council’s press office [or similar] of issues likely to be of media interest, since that unit is the media’s first point of contact.
- 15.6. If a member is contacted by, or contacts, the media on an issue, they should:

- indicate in what capacity they are speaking (e.g. as ward member, in a personal capacity, as an Executive member, on behalf of the Council, or on behalf of a party group);
- be sure of what they want to say or not to say;
- if necessary, and always when they would like a press release to be issued, seek assistance from the Council's press office and/or relevant senior officer, except in relation to a statement which is party political in nature;
- consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- consider whether to consult other relevant members; and
- take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist.

15.7 In respect of employee participation in radio and television programmes, the following applies:

- (a) That all invitations to participate in media programmes, which may be of a general nature, be approved by the relevant CMT member.
- (b) That all officers who may be involved in such programmes receive appropriate media training.
- (c) That if necessary, clarity be sought from the radio or television station concerned on what areas are to be covered by the programme in question.
- (d) That if in advance it is known that the programme may cover controversial issues, the attendance by the officer be re-evaluated.

## **16. Correspondence**

16.1. Where correspondence has been marked "Private and Confidential" or "Not for Circulation" this should always be respected, and such correspondence should not be copied or forwarded to other people unless the original author consents. This applies especially to e-mails.

16.1A Where the requirements of 16.1 are knowingly disregarded, then the person failing to observe these requirements will be notified in advance that in future the 'Prevent Copy' facility will be used for e-mails that are private and confidential, or where the author does not intend them to be forwarded or otherwise circulated to other people. The 'Prevent Copy' facility should not be used as a matter of course for e-mails that are not "Private and Confidential" or "Not for Circulation".

16.2. Official letters written on behalf of the Council should normally be in the name of the relevant officer. However, the Elected Mayor and Executive members may initiate correspondence on behalf of the Council in their own names.

16.3. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of a Chair of Committee.

16.4. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member, including the Elected Mayor.



16.5. When writing in an individual capacity as a ward member, a member must make clear that fact.

## **17. Access to premises**

17.1. Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

17.2. Members have a right to reasonable access to Council land and premises to enable them to fulfil their Council duties.

17.3. When making visits as individual members, members should:

- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit;
- if outside their own ward, notify the ward member(s) beforehand; and
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

17.4. Members must have regard to, and act in accordance with, the Council's Protocol Relating to the Residents of Other Wards.

## **18. Use of Council resources**

18.1. The Council provides all members with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

18.2. Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:

- where facilities are provided in members' homes at the Council's expense;
- in relation to any locally-agreed arrangements e.g. payment for private photocopying; and
- regarding ICT security.

18.3. Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting;
- electioneering;
- work associated with an event attended by a member in a capacity other than as a member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
- support to a member in their capacity as a councillor of another local authority.

## **19. Interpretation, complaints and allegations of breaches**

- 19.1. This part of the protocol should be read in conjunction with any “whistleblowing” policy the Council may have.
- 19.2. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer or the Head of Democratic Services.
- 19.3. A member who is unhappy about the actions taken by, or conduct of, an officer should:
  - avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - never make a criticism in public, and
  - take up the concern with the officer privately.
- 19.4. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer’s manager, or the relevant senior officer.
- 19.5. A serious breach of this protocol by an officer may lead to an investigation under the Council’s disciplinary procedure.
- 19.6. An officer who believes a member may have acted other than in accordance with this protocol should raise their concern with the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the Members’ Code of Conduct, and may be referred to the Standards Hearings Sub-committee.

# **FILMING OF COUNCIL MEETINGS**

## **Filming of Public Meetings**

### **Code of Conduct**

The Council is committed to being open and transparent particularly in relation to the way it conducts business at those meetings which are open to the public.

As part of this approach this Code of Conduct provides guidance on the filming, photographing and/or making an audio recording of proceedings at meetings of the Council, Executive, Committees and Sub-Committees.

As a means to assist with this, the Council will itself film the proceedings of Council meetings and, where it is feasible and practical to do so, other meetings which are open to the public. It is intended to make the footage available for public viewing via the Council website.

In accordance with pending legislation, members of the public and media are to be allowed to film, photograph and/or make audio recordings at public meetings held by the Council from 2 July 2014 onwards.

As a means to assist this, the Council has adopted the following guidelines, which are based on common courtesy and respect:

1. that, subject to the provisions in paragraph 2 below, all members of the public remain seated during the proceedings of the meeting;
2. as some members of the public may prefer not to be filmed, they should sit or stand to the rear of the public area;
3. those wishing to film must show appropriate respect for the wishes of the public who do not want to be filmed;
4. that in seeking to film, photograph or make an audio recording, the conduct of the meeting is not disturbed;
5. if it is agreed at the meeting to pass a motion to exclude the press and public because confidential and/or or exempt information, as defined by the Local Government Act 1972, is likely to be disclosed, members of the public will be asked to leave the meeting and no filming, photography and/or audio recordings can then take place;
6. that without the express consent of their parents/guardians, the filming of any children who might be in attendance is strictly prohibited;
7. whilst not a requirement, it would be helpful for anyone intending to film, or wishing to discuss any special requirements, to contact the Members' Office in advance of a meeting to seek advice, guidance and help.

As indicated at point 5 above, there are some limited circumstances, related to items containing either confidential or exempt information, when the filming of public meetings is prohibited. Whilst it is considered that such items will be infrequent, when such matters do arise, the Chair of the meeting will be responsible for providing guidance and advice.

If for whatever reason someone refuses to stop recording, taking photographs or making an audio recording when requested to do so, the Chair will ask the person to leave the meeting. If they refuse to do so then the Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the Council's Constitution.

NOTES

- (1) There is a presumption that Members and Officers give their consent to be filmed and for images to be webcast, unless a specific request is made to the Monitoring Officer for an exception to be made in advance of the meeting. The Monitoring Officer will take a view on a case-by-case basis on whether there is sufficient justification for making an exemption.
- (2) On each agenda and on signs to be displayed inside and outside the meeting room there will be the following notice:

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy.

Therefore by entering the meeting room, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

# APPENDICES

# **CODE OF CORPORATE GOVERNANCE**

## Part 1 – Policy

### Introduction

1. This document sets out the Council's policy in relation to corporate governance. It draws strongly on the good practices already established within Middlesbrough Council and in the framework document published jointly by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Head of Paid Services (SOLACE). Members and staff are bound equally by its content.
2. Traditionally, corporate governance has been associated with ethics and standards of conduct. Essentially, members and staff have been bound by a set of rules in conducting the Council's business, and it tended to be only when these boundaries were transgressed that the public became aware of them. But, just as modernisation has changed the way that local government goes about its business, corporate governance has also been transformed.
3. Corporate Governance is now defined within the CIPFA/SOLACE framework document as "the system by which local authorities direct and control their functions and relate to their communities". In other words, the way, in which organisations manage their business, determine strategy and objectives and go about achieving those objectives. This emphasises the Council's key role in governing and leading the community and that effective local government relies on public confidence in elected councillors and officials. Where good corporate governance is in place it underpins credibility and confidence in our public services.

### Key Principles

4. Good corporate governance is based on three basic principles
  - Openness and inclusivity
  - Integrity
  - Accountability

and the Council is committed to these through the adoption of this policy. To do this everybody must monitor systems and processes for their effectiveness in practice and keep them under review to ensure that they are up to date. For this reason, the framework is in two parts. The first sets out the Council's arrangements and the second sets out the procedures for regularly monitoring their effectiveness and making appropriate changes to deliver the continuous improvement that the Council and its stakeholders would expect.

5. Openness is required to ensure that stakeholders can have confidence in the decision making and management processes of local authorities and in the approach of the individuals within them. Being open, through genuine consultation with stakeholders and providing access to full, accurate and clear information leads to effective and timely action and lends itself to necessary scrutiny. Openness also requires an inclusive approach, which seeks to ensure that all stakeholders and potential stakeholders have the opportunity to engage effectively with the decision making processes and actions of the Council. It requires an outward focus and a commitment to partnership working. It calls for innovative approaches to consultation and to service provision.



6. Integrity is based on straightforward dealing and completeness. It is based on honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of public funds and management of the Council's affairs. It is dependent upon the effectiveness of the control framework and on the personal standards and professionalism of the members and staff within the Council. It is reflected in the Council's decision-making procedures, in its service delivery and in the quality of its financial and performance reporting.
7. Accountability is the process whereby the Council, members and the staff are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate scrutiny both internal and external. It is achieved by everybody having a clear understanding of those responsibilities, and having clearly defined roles through a robust structure.
8. The concept of leadership overarches these three principles. These principles can only be adhered to if leadership is exercised through:
  - The Council providing vision for the community and leading by example in its decision making and other processes and actions
  - Members and managers conducting themselves in accordance with high standards of conduct.

#### Our Aims

9. Openness and inclusivity. Openness is an essential element of governance and ready access to information and transparency of decisions are critical to public confidence. The principle of openness has been enhanced to emphasise the need to engage with communities on an inclusive basis, taking care to include those often referred to as "hard to reach".
  - Through the modernisation process, the Council has already been successful in making information about its key decisions more accessible to stakeholders; these are now publicised in advance, reports and decisions are open and available to the public via the website and information held at public libraries.
  - Again, through modernisation, we have engaged in consultation with the community and are constantly working on more innovative ways to deliver services to stakeholders and engage them in determining appropriate levels and means of delivery.
  - Our local strategic partnership (LSP) brings together around 40 representatives from public, private, voluntary and community sectors, providing particularly invaluable outreach to, and engagement from various sectors of the community.
  - Through our Equality and Race Policies we are seeking to be inclusive and deliver services to all sectors of the community in a manner which will seek to ensure that all who are in need of services have the opportunity to take up the services.

Our aim is to build on this success.

- Through the Council's Vision and Corporate Strategies we will set out our vision and corporate strategy in response to community needs and will continue to review its effectiveness through consultation with our stakeholders, partners and potential stakeholders (such as future users)
- We will strive to put as much information as possible into the public domain and to make it available electronically wherever and as soon as possible

- Reports, background papers, decisions and meetings will generally be accessible to the public and other stakeholders as set out in Part 3 of the Constitution.
- Our standards will be set out in a manner which is unambiguous, understandable and accessible for all those in our community

10. Integrity Stakeholders and potential stakeholders have a right to expect the highest possible standards of honesty, selflessness and objectivity from the Council's officers and members. We are judged by the way we are seen to manage public funds, how we make decisions, standards of service delivery and through the quality of our financial and performance reports.

11. In this area too, the Council has well-established arrangements many of which are built on the personal standards and professionalism of officers and members.

- We already have well documented control mechanisms
- We have established and continue to establish effective relationships and partnerships with other public agencies, the private and voluntary sectors through initiatives such as the LSP, West Middlesbrough Neighbourhood Trust (WMNT), Single Regeneration Budget, Sure Start and others.
- We have a new constitution including a directly elected Mayor supported by procedure rules, schemes of delegation and member and officer protocols, all of which clearly set out the rules by which The Elected Mayor, members and officers are bound in setting policies, taking decisions and delivering services. These also set out the consequences of non-compliance.
- The Council regularly assesses and reviews its strategic and operational risks and maintains appropriate financial balances to deal with emergencies and other unforeseen circumstances.
- The Council has an established network of intermediaries.

Our aim is to ensure that the Council maintains high standards of integrity.

- We will review our Constitution and supporting documents to determine whether we are delivering what we set out to achieve and the public has confidence in those systems and procedures
- We will respond honestly and fairly to any challenge to our integrity and make changes where we are legally able to do so and where this is appropriate and proportionate to the risk
- We will continue to engage with the whole community and develop partnerships alongside the LSP to ensure the right provision of services locally

12. Accountability like all Councils, Middlesbrough is accountable to stakeholders for its performance, its effectiveness in the delivery of services and the sustainable use of resources. The Council demonstrates this through a mixture of prescribed statements and documents which are either delivered to every household and business or are available for inspection at designated points within the district.

- Middlesbrough has published the Council's Vision and Corporate Strategies in advance of many other authorities in the country, in a variety of formats to make it accessible, including CD Rom, printed English, Urdu, Arabic and Braille.

- Every year we publish our annual report including the Council's financial statements for the previous year
  - The Council's Annual Audit Letter has reported favourably on the Council's accounts, financial aspects of corporate governance and the Council's performance
  - Reports provide named officer contacts, telephone numbers and e-mail addresses
  - The Council has adopted a Local Code of Conduct for Members
  - The Council has achieved recognition for its performance, engagement and consultation through the award of Beacon Status in 2002 for Neighbourhood Renewal.
  - The IdeA have cited the LSP's Engagement Framework as a model of good practice and the LSP is amongst the first to have adopted a Performance Management tool.
13. Leadership in response to the Local Government Act 2000, Middlesbrough opted for The Elected Mayor and Executive Model and these arrangements became effective in May 2002.

### **Anti-Fraud & Corruption Strategy**

14. In administering its responsibilities, the Council is determined to act against fraud and corruption, whether it is attempted on the Council from outside or inside, and is committed to an effective Anti-Fraud and Corruption Strategy designed to
- Maximise prevention
  - Promote detection
  - Identify a clear pathway for investigation and action
15. The Anti-Fraud and Corruption Strategy recognises that the public have a right to expect the highest possible standards of honesty and integrity from the Council, its officers and the individual members elected to represent them, and that the actions of those persons are free of fraud and corruption. Equally, the Council expects all individuals and organisations with whom it conducts business to act with integrity and without thought or actions involving fraud and corruption.
16. Like all local authorities, Middlesbrough operates within a statutory framework which governs the behaviour of elected members and officers, in addition to which, it has a well-established framework of guidance on best practice which is laid down in its procedure rules, the scheme of delegations and the new codes of conduct for members and for officers. As part of modernisation it has also established the Standards Committee.
17. The aim of the Anti-Fraud & Corruption Strategy is therefore that it should be the Council's policy statement of its strategy for combating and dealing with fraud and corruption both within and against the authority. As such, it provides an overview of the key principles to be observed by members and officers (identified in the Audit Commission report "Protecting The Public Purse"). It does not seek however, to detail the specific requirements which are contained in the Constitution and the Employees Conditions of Service, and thus avoids duplication of effort and the possibility of conflicting advice from different documents.
18. Having established a strategy for dealing with fraud and corruption, the Council will, through the Chief Finance Officer, keep under review its Financial and Contract Procedure Rules and other procedures to ensure that these continue to contribute to

a strong control environment within the Council, and that these arrangements remain appropriate and adequate for the prevention and detection of fraud and corruption and provide a sound basis on which to secure cost-effective service provision for local taxpayers.

## Part 2 – Framework

### Monitoring Review

19. To be considered to have effective corporate governance, Middlesbrough Borough Council needs to be able to demonstrate that the three key principles have been complied with and that they are put into practice as an integral part of carrying out the Council's business. The CIPFA/SOLACE guidance sets out five elements of corporate governance and this second part of the code illustrates the method by which the Council intends to deliver each of the requirements which have been identified within the framework document and which is recommended best practice.
20. In practice, Middlesbrough has already established many of these mechanisms. Some of these work well as they are and need no further work but we recognise that others need slight modification now. The remaining few, mainly new initiatives under the corporate governance heading for the first time will need to be developed. All will need to be kept under review and the method of delivery periodically tested and re-evaluated to ensure that it remains appropriate, proportionate and up to date.

### Community Focus

Requirement	Delivery
Publication of an annual report presenting an objective, understandable account of the authority's activities and its financial position and performance.	<ul style="list-style-type: none"> <li>• Publication of its Annual Review</li> <li>• Annual financial statements</li> <li>• Publication of Public Library Position Statement and Action Plan</li> </ul>
Publish a strategic overview document presenting an objective, balanced and understandable account and assessment of the authority's current performance in service delivery and its future plans.	<ul style="list-style-type: none"> <li>• Mayor's Vision</li> <li>• Change Strategy</li> </ul>
Put in place proper arrangements for the independent review of the financial and operational reporting processes.	<ul style="list-style-type: none"> <li>• External Audit reports</li> <li>• Internal Audit reports</li> </ul>
Put in place proper arrangements designed to encourage individuals and groups from all sections of the community to engage with, contribute to and participate in the work of the authority and put in place appropriate monitoring processes to ensure that they continue to work in practice.	<ul style="list-style-type: none"> <li>• Formal Scrutiny Process</li> <li>• Publication of Forward Plan</li> <li>• Engagement and consultation mechanisms</li> <li>• Website and communications</li> <li>• Annual Equality and Diversity report and Equality Act 2010 objectives</li> </ul>
Requirement	Delivery
Make an explicit commitment to openness in all of their dealings, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so, and by their actions and communications deliver and account against that commitment.	<ul style="list-style-type: none"> <li>• Online committee papers</li> <li>• Rights of citizens (section 4 of the Constitution)</li> <li>• Publication of Forward Plan</li> <li>• Static information on Council website</li> </ul>

Establish clear channels of communication with all sections of their community and other stakeholders, and put in place proper monitoring arrangements to ensure that they are operated effectively.	<ul style="list-style-type: none"> <li>• Meetings held with business community etc</li> <li>• Support mechanisms for community and voluntary sector</li> <li>• Engagement and consultation mechanisms</li> <li>• Neighbourhood plans</li> <li>• Friends of...groups</li> <li>• Interfaith Forum</li> </ul>
Put in place proper arrangements to ensure that the Council's Executive is held to account for its action.	<ul style="list-style-type: none"> <li>• Formal Scrutiny process</li> </ul>
Ensure that a vision for local communities and strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders and that they are clearly articulated and disseminated.	<ul style="list-style-type: none"> <li>• Mayor's Vision</li> <li>• Change Strategy</li> <li>• Health and Wellbeing Strategy</li> </ul>

### Service Delivery Arrangements

<b>Requirement</b>	<b>Delivery</b>
Set standards and targets for performance in the delivery of services on a sustainable basis and with reference to equality policies.	<ul style="list-style-type: none"> <li>• Formal Scrutiny Process</li> <li>• Local performance management framework – Balanced Scorecards</li> <li>• Change Strategy</li> </ul>
Put in place appropriate systems for providing management information for performance measurement purposes.	<ul style="list-style-type: none"> <li>• Local performance management framework – Balanced Scorecards</li> </ul>
<b>Requirement</b>	<b>Delivery</b>
Monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans.	<ul style="list-style-type: none"> <li>• Local performance management framework – Balanced Scorecards</li> </ul>
Put in place arrangements to allocate resources according to priorities.	<ul style="list-style-type: none"> <li>• Change Strategy</li> <li>• Budget setting</li> <li>• Local performance management framework – Balanced Scorecards</li> </ul>
Foster effective relationships and partnerships with other public sector agencies and the private and voluntary sector agencies, and consider outsourcing where it is efficient and effective to do so, in delivering services to meet the needs of the local community, and to put in place processes to ensure that they operate effectively in practice.	<ul style="list-style-type: none"> <li>• Change Strategy</li> <li>• Health and Wellbeing Board</li> <li>• Interfaith Forum</li> </ul>

Respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the effective implementation of agreed actions.	<ul style="list-style-type: none"> <li>• Inspectorate Reports and subsequent action plans</li> <li>• Formal scrutiny process</li> </ul>
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## Structures and Processes

Requirement	Delivery
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### Balance of Power and Authority

Put in place clearly documented protocols governing relationships between members and officers	<ul style="list-style-type: none"> <li>• Protocol on Member/Officer Relations</li> </ul>
Ensure that the relative roles and responsibilities of Executive, other members and senior officers are clearly defined.	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Scheme of Delegation</li> <li>• Job Descriptions</li> </ul>

### Roles and Responsibilities – Members

Ensure that members meet on a formal basis regularly to set the strategic direction of the authority and to monitor service delivery.	<ul style="list-style-type: none"> <li>• Timetable of Council meetings (Council/Executive/Scrutiny Committees)</li> </ul>
Develop and maintain a scheme of delegated or reserved powers, which should include a formal schedule of those matters specifically reserved for the collective decision of the authority.	<ul style="list-style-type: none"> <li>• Scheme of Delegation to Officers</li> <li>• Executive Scheme of Delegation</li> </ul>
Put in place clearly documented and understood management processes for policy development, implementation and review and for decision making, monitoring and control, and reporting; and formal and procedural and financial regulations to govern the conduct of the authority's business.	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Financial Procedure Rules</li> <li>• Independent Allowances &amp; Remuneration Panel</li> <li>• Scheme of Delegations</li> </ul>
Put in place arrangements to ensure that members are properly trained for their roles and have access to all the relevant information, advice and resources necessary to carry out their role effectively.	<ul style="list-style-type: none"> <li>• Members training scheme</li> <li>• One Stop Shop</li> <li>• Executive Support</li> <li>• The provision of IT and internet access</li> </ul>
Put in place effective arrangements to ensure that there is adequate review and scrutiny of policy.	<ul style="list-style-type: none"> <li>• Formal scrutiny process</li> </ul>

Ensure that the role of the Executive member(s) is/are formally defined in writing, to include responsibility for providing effective strategic leadership to the authority and for ensuring that the authority successfully discharges its overall responsibilities for the activities of the organisation as a whole	<ul style="list-style-type: none"> <li>• Constitution (part 3)</li> <li>• Executive Members Performance Management Procedures</li> </ul>
Ensure that the roles and responsibilities of all members of the local authority, together with the terms of their remuneration and its review; are clearly defined in writing.	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Members Allowance Scheme</li> </ul>

### Roles and Responsibilities – Officers

Requirement	Delivery
Ensure that a Head of Paid Service or equivalent is made responsible to the authority for all aspects of operational management	<ul style="list-style-type: none"> <li>• Article 12 – Constitution</li> <li>• Statutory provisions</li> <li>• Scheme of delegations</li> <li>• CE Job Description</li> </ul>
Ensure that a senior officer is made responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts and for maintaining an effective system of internal financial control.	<ul style="list-style-type: none"> <li>• Article 12.4 – Constitution</li> <li>• Section 151 Local Government Act 1972 Responsibilities</li> <li>• Statutory provision</li> <li>• Statutory Reports</li> <li>• Job description/specification</li> </ul>
Ensure that a senior officer is made responsible to the authority for ensuring that agreed procedures are followed and that applicable statutes, regulations and other relevant statements of good practice are complied with.	<ul style="list-style-type: none"> <li>• Article 12.3 Constitution</li> <li>• Monitoring officer provisions (Housing &amp; Local Government Act 1989)</li> <li>• Constitution</li> <li>• Statutory provisions</li> <li>• Monitoring Officer Job Description/specification</li> <li>• Professional Codes of Conduct</li> </ul>
Ensure that the roles and responsibilities of all senior officers, together with the terms of their remuneration and its review are clearly defined in writing.	<ul style="list-style-type: none"> <li>• Job descriptions/specifications</li> <li>• Pay and conditions of service</li> </ul>
Adopt clear protocols and codes of conduct to ensure that the implications for supporting community political leadership for the whole council are acknowledged and resolved.	<ul style="list-style-type: none"> <li>• Protocols governing member/officer relations</li> </ul>



## Risk Management and Internal Control

Requirement	Delivery
Develop and maintain robust systems for identifying and evaluating all significant risks which involve the proactive participation of all those associated with planning and delivering services	<ul style="list-style-type: none"> <li>• Risk Assessment in Community Strategy Delivery Plan</li> <li>• Budget Planning Procedures</li> </ul>
Put in place effective risk management systems, including systems of internal control and an internal audit function. These arrangements need to ensure compliance with all applicable statutes, regulations and relevant statements of best practice. The arrangements also need to ensure that public funds are used economically, efficiently and effectively, and in accordance with the statutory and other authorities that govern their use.	<ul style="list-style-type: none"> <li>• Scheme of delegation</li> <li>• Internal Audit protocol</li> <li>• Performance appraisal</li> <li>• Financial standards and regulations</li> <li>• Treasury Management Strategy</li> <li>• Departmental Service Plans</li> <li>• Corporate Training Priorities</li> <li>• Health &amp; Safety Training</li> </ul>
Ensure that services are delivered by trained and experienced people	<ul style="list-style-type: none"> <li>• Recruitment &amp; Selection Procedures</li> <li>• Training plan</li> <li>• Staff Appraisals</li> </ul>
Put in place effective arrangements for an objective review of risk management and internal control including internal audit	<ul style="list-style-type: none"> <li>• Scheduled meetings with the District Auditor and Relationship Manager</li> <li>• Corporate Affairs and Audit Committee</li> </ul>
Maintain an objective and professional relationship with their external auditors and inspectors	<ul style="list-style-type: none"> <li>• Inspectorate reports</li> <li>• Annual audit letter and other reports</li> <li>• Audit protocol</li> </ul>

## Standards of Conduct

Requirement	Delivery
Develop and adopt formal codes of conduct defining the standards of personal behaviour to which individual members, officers and agents of the authority are required to subscribe and put in place appropriate systems and processes to ensure that they are complied with.	<ul style="list-style-type: none"> <li>• Code of Conduct for Members (from 2.4.02)</li> <li>• Code of Conduct for Officers</li> <li>• Anti-fraud and corruption policy</li> <li>• Complaints procedures</li> <li>• Performance appraisal</li> <li>• Contract Procedure Rules</li> <li>• LSP Constitution and Handbook</li> </ul>
Put in place arrangements to ensure that members and officers of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Contract Procedure Rules</li> <li>• Financial Procedure Rules</li> <li>• Code of Conduct for Members (from 2.4.02)</li> </ul>

processes to ensure that they continue to operate in practice.	<ul style="list-style-type: none"> <li>• Code of Conduct for Officers</li> <li>• Equal Opportunities Policy</li> <li>• LSP Constitution and Handbook</li> <li>•</li> </ul>
Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and to monitor their continuing compliance in practice.	<ul style="list-style-type: none"> <li>• Equal Opportunities Framework</li> <li>• Contract Procedure Rules</li> <li>• Financial Procedure Rules</li> </ul>
Put in place arrangements for whistle blowing to which staff and all those contracting with the Council have access.	<ul style="list-style-type: none"> <li>• Section 29 of Conditions of Service</li> <li>• Whistle blowing policy established under the Public Interest Disclosure Act 1998.</li> </ul>

21. The delivery column of the above matrices sets out how these requirements are currently delivered and each delivery method is underpinned by a tangible and measurable document or system.
22. Each area of governance has a senior officer assigned to it and this is shown in the table below. In some cases it has been necessary to further sub-divide the areas of governance because of split responsibilities, but every role has a champion assigned to it. The “champions” will be responsible for keeping the service delivery method under review, measuring outcomes and ensuring that they remain appropriate proportionate and are up to date, taking legislative and other changes into account. In addition, to their responsibility for keeping the supporting documents up to date these officers are also responsible for making sure that they are available to those that want or need access to them.
23. In order that the monitoring and review processes remain proportionate to the size of the authority and the council has not opted for a detailed record to be maintained by champions and senior managers. There are many areas where monitoring and review is already built into e.g. the publication of various documents and improvement and change can be measured by outputs.

<b>Area of Governance</b>	<b>Responsible Chief Officer</b>	<b>Senior Manager(s)</b>
Access to Information	Monitoring Officer	Head of Democratic Services
Assets	Chief Finance Officer	
Conduct	Head of Paid Service	Monitoring Officer Head of Human Resources Chief Finance Officer
Data Protection	Monitoring Officer	Data Protection Officer
Elections and Electoral matters	Head of Democratic Services	Members and Statutory Services Manager
Performance Management	All Chief Officers	
Risk Management	Corporate Management Team	
Service Delivery	All Chief Officers	All
Staffing	All Chief Officers	Head of Human Resources
Structure	Head of Paid Service	Chief Officers

# **MONITORING OFFICER PROTOCOL**

**MIDDLESBROUGH BOROUGH COUNCIL  
MONITORING OFFICER PROTOCOL**

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**A GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES**

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1. The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Middlesbrough Borough Council.
2. The current responsibilities of the Monitoring Officer role rest with the Council's Monitoring Officer, who undertakes to discharge her statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, she will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
3. A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
  - a) complying with the law (including any relevant Codes of Conduct);
  - b) complying with any General Guidance issued, from time to time, by the Standards Committee, the Government and the Monitoring Officer;
  - c) making lawful and proportionate decisions, and
  - d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

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**B WORKING ARRANGEMENTS**

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4. Having good working relations with Members and Officers will assist in the discharge of the statutory responsibilities on the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his staff) to discharge the Council's statutory and discretionary responsibilities.
5. The following arrangements and understandings between the Monitoring Officer, Members and Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:
  - (a) report to the Council and to the Executive in any case where he is of the opinion that any decision or proposal of the Authority in respect of any reportable incident (being any matter which, in his opinion, has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Section 5 and 5A of the Local Government and Housing Act 1989);
  - (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding

decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Committee meetings, Executive and/or Senior Management Team (or equivalent arrangements);

- (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Committee meetings, Executive and/or Senior Management Team (or equivalent arrangements);
- (d) act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive.
- (e) carry out any investigation(s) where he believes a matter may constitute a reportable incident and have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;
- (f) ensure that other statutory officers (Head of Paid Service and the Chief Finance Officer ) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (g) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (h) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Finance Officer ;
- (i) as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources he requires to discharge his statutory functions;
- (j) have a special relationship of respect and trust with the Elected Mayor, the Chairman of the Council and the Chairman of the Licensing, Standards, Overview & Scrutiny and Planning Committees, with a view to ensuring the effective and efficient discharge of Council business;
- (k) develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments up to £5,000 for alleged or actual maladministration found against the Council;
- (l) maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- (m) act as Principal Adviser to the Standards Committee;

- (n) give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Standards Hearings Sub Committee;
- (o) be responsible for Complaints, Local Commissioner and Whistle-blowing functions of the Authority
- (p) in consultation, as necessary, with the Chairs of the Council and Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigation body is involved;
- (q) be the Proper Officer for the Freedom of Information Act 2000;
- (r) investigate any application for a dispensation and report and recommend to the Standards Committee;
- (s) have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
- (t) undertake all statutory Monitoring Officer functions in respect of Parish Councils within the area of the Authority and to provide support and advice to such Parish Councils in maintaining probity, including:
  - (1) advice on the requirement for them to adopt a Local Code;
  - (2) advice on the requirement upon Members to sign an undertaking to observe their Authority's Local Code within two months of the Authority adopting its Local Code;
  - (3) advice on the requirement for Members to notify the Monitoring Officer of any financial or other interests and of any changes in such interests, that such declarations will form part of a public register, means of gaining access to that register, and of any arrangements to ensure that Parish Council Clerks are kept informed of any such declarations;
  - (4) advice on the need to apply to the Standards Committee for any dispensations and of the arrangements agreed by the Standards Committee for receiving and determining any such applications, and for maintaining a register of such dispensations and advising the applicant and the Council of any dispensations which are granted;
  - (5) advice on any provisions under which individual complaints of misconduct by Members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committee for dealing with such complaints; and
  - (6) advice to individual Members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a dispensation, and on any consequent restrictions on the Member's participation in consideration of the matter.

- (7) subject to the approval of the Standards Committee, be responsible with others for preparing any training programme for Members on ethical standards and Code of Conduct issues; and
  - (u) appoint a deputy or deputies and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer;
  - (v) after consultation with the Head of Paid Service and the Chief Finance Officer notify the Police, the Authority's auditors and other regulatory agencies of his concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
  - (w) obtain at the Authority's expense, specialist legal advice, either internally or from an independent external solicitor or barrister, on any matter, which he believes, may be a reportable incident.
- 6. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 7. The Monitoring Officer and the Deputy Monitoring Officers are also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).
- 8.
  - (a) The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality, etc., or by identifying alternative and legitimate means of achieving the objective of the proposals. Accordingly, Officers and Members of the Authority may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer and member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;
  - (b) Where the Monitoring Officer receives a complaint of a potential reportable incident, he shall, in appropriate cases, seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such import that a statutory report is the only appropriate response;
  - (c) In appropriate cases, the Monitoring Officer may rely upon existing processes within the Authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
  - (d) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his written advice to the report of any other officer of the Authority;



- (e) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the Chief Finance Officer, he is of the opinion that such is necessary in order to respond properly to a reportable incident.
9. To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

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**C SANCTIONS FOR BREACH OF MIDDLESBROUGH'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL**

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10. Any complaint which indicates that there may have been a breach of the Code of Conduct for Members must be referred to the Monitoring Officer. The Monitoring Officer considers the complaint and determines whether the conduct complained of has occurred within the six months immediately preceding the submission of the complaint. If it has not, the Monitoring Officer will notify the Complainant that the complaint is out of time, and closes the Complaints file; if it has, the Monitoring Officer contacts the Independent Person to discuss the content of the Complaint, and to consider whether an investigation is warranted. Complaints against any breach of this protocol by a Member may be referred to the Standards Hearings Sub Committee and to the relevant Leader of the Political Party Group. Complaints against any breach of this protocol by an Officer may be referred to the Head of Paid Service or their designated representative.

**11. Conflicts**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he has previously advised the Authority, he shall consult the Head of Paid Service who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Head of Paid Service or request a neighbouring Authority to make their Monitoring Officer available to the Authority to investigate the matter and report to the Head of Paid Service and/or the Authority as appropriate.

SUMMARY OF MONITORING OFFICER FUNCTIONS  
IN CONSULTATION WITH THE HEAD OF PAID SERVICE

**WHERE APPROPRIATE**

	<b>Description</b>	<b>Source</b>
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government & Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government & Housing Act 1989
3	To review regularly the Council's standing orders, regulations, codes and procedures to ensure they are up-to-date and comply with statutory and best practice requirements.	
4	To monitor Committee agenda, reports and general decision-making to ensure that no proposals or decisions breach the law or amount of maladministration.	
5	To advise Members and Officers on propriety issues when required.	
6	To receive (and consider) copies of certificates under the Local Authorities (Contracts) Regulations 1997.	
7	To assist the Council in the preparation of its new local Code of Conduct for Members or any revisions to that Code (incorporating where appropriate model code optional provisions) via the Standards Committee.	
8	To assist the Standards Committee of the Council in its functions and, more particularly, promoting/maintaining Member conduct and assisting Members observe the code.	LGA 2000 Sections 51(4) 54(2) as amended by the Localism Act 2011
9	To establish and maintain a register of Members' (including co-opted) financial and other interests and make it available for public inspection.	LGA 2000 Section 81 (1)

10	To advise the Standards Committee on the granting of dispensations to Members.	LGA 2000 Section 81 (4), (5) as amended by the Localism Act 2011
11	To assist the Standards Committee in the exercise of its functions relating to Parish Councils in its area, including promoting/maintaining Member conduct and advising on local code.	LGA 2000 Section 55 (1), (2) as amended by the Localism Act 2011
12	To receive decision notices from interim case tribunals and advise the Standards Committee on effect/steps to be taken.	LGA 2000 Section 78 (7) as amended by the Localism Act 2011
13	To receive decision notices from case tribunals on behalf of the Standards Committee and advise the Committee on steps (if any) to be taken.	LGA 2000 Section 79 as amended by the Localism Act 2011
14	To advise the Standards Committee on steps to be taken by the Council following receipt of a case tribunal's recommendations relating to function/code/Standards Committee.	LGA 2000 Section 80 (3) as amended by the Localism Act 2011
15	As a matter of good practice to report to the Council annually on operation of the internal and external complaints systems, and use of the 'whistleblowing' procedures.	1998 White Paper para 6.42 LGMB guidance, Public Interest Disclosure Act 1998
16	To consider conducting an annual propriety audit within Council as a preventative measure.	
17	Appointment of Deputy.	Section 5 Local Government & Housing Act 1989
18	Report on Resources.	Section 5 Local Government & Housing Act 1989
19	Receive copies of whistleblowing allegations of misconduct.	Model Code
20	Advice to Members on interpretation of Code.	Model Code and Consultation Paper
21	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance paragraph 8.20
	Description	Source
22	New Ethical framework functions in relation to Parish Councils.	Section 83 (12) LGA 2000
23	Compensation for maladministration	Section 92 LGA 2000

24	Advice on vices issues, maladministration, impropriety, probity and policy framework to all Members.	DETR guidance
25	Acting as Lead Officer for the Standards Committee.	

# STATUTORY OFFICER PROFILES

## **STATUTORY OFFICER PROFILES**

### **HEAD OF PAID SERVICE**

#### **INDIVIDUAL STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES**

It shall be the duty of the Head of Paid Service, where they consider it appropriate to do so, to prepare a report to the Authority setting out their proposals. Those matters are:

- the manner in which the discharge by the Authority of their different functions is co-ordinated;
- the number and grades of staff required by the Authority for the discharge of their functions;
- the organisation of the authority's staff;
- the appointment and proper management of the Authority's staff.

A copy of the report should be sent to each member of the Authority.

The Head of Paid Service may not be the Monitoring Officer but may hold the post of chief finance officer if a qualified accountant.

#### **The Head of Paid Service will:**

- ◆ have responsibility for the management functions;
- ◆ determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers;
- ◆ 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;
- ◆ be responsible for the corporate and overall strategic management of the Authority.
- ◆ be responsible for establishing a framework for management direction, style and standards; and for monitoring the performance of the organisation.
- ◆ represent the Authority on partnership and external bodies, in accordance with the scheme of delegation;
- ◆ publish once a year a notice in at least one local newspaper regarding the Forward Work Programme.

### **CHIEF FINANCE OFFICER**

#### **CONSTITUTIONAL AND STATUTORY RESPONSIBILITIES**

#### **The Chief Financial Officer will**

#### **IN ENSURING LAWFULNESS AND FINANCIAL PRUDENCE OF DECISION MAKING**

- ◆ be responsible for the administration of the financial affairs of the Council;
- ◆ 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 Executive in relation to an Executive function and the Council's external auditor, if they consider 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;
- ◆ be responsible for setting and monitoring standards and reserve the right to be involved in the appointment of all staff employed in posts designated as requiring a qualified accountant or auditor;
- ◆ in compliance with section 114 of the Local Government Finance Act 1998, report to the full Council, Executive and external auditor if the Authority or one of its officers has made or is about to make a decision which involves or would involve the Council in incurring expenditure which is unlawful; has taken or is about to take a course of action which, if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency is on the part of the Council; is about to enter an item of account, the entry of which is unlawful;
- ◆ produce a report if it appears that the expenditure proposed by the Council in a financial year is likely to exceed the resources available to meet that expenditure;
- ◆ report to the Executive each year on the general financial situation of the Council and upon future financial scenarios in relation to the coming year's budget prospects and long term trends;
- ◆ be responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Executive, before full submission to the Council. Each Strategic/Assistant Director shall prepare annually a forward revenue budget in accordance with the criteria specified by the Chief Finance Officer;
- ◆ report to the Executive not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his delegated treasury management powers;

#### **IN RELATION TO THE ADMINISTRATION OF FINANCIAL AFFAIRS**

- ◆ have statutory responsibility for the financial administration and the stewardship of the Authority arising from the Section 151 of the Local Government Act 1972, The Local Government Finance Act 1988, The Local Government and Housing Act 1989, and The Accounts and Audit Regulations 1996;
- ◆ be responsible for: the proper administration of the Authority's financial affairs; setting and monitoring compliance with financial monitoring standards; advising on the corporate financial position and on the key financial controls necessary to secure sound financial management; providing financial information; preparing the revenue budget and the capital programme; treasury management, pension and trust funds; and advice on the safeguarding of assets including risk management and insurance;
- ◆ be responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Executive and for approval to

the full Council. Also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or the Executive;

- ◆ in accordance with Section 114 of the Local Government Finance Act 1998 nominate a properly qualified member of staff to deputise should they be unable to perform the duties under Section 114 personally;
- ◆ approve all financial procedures, records, systems and accounts operated through the Council including any changes which are subsequently proposed;
- ◆ be responsible for keeping the principal accounting records for all services of the Council; that the accounts and accompanying reconciliations are properly prepared and presented for audit in accordance with relevant guidelines and statutes; undertake the day to day management of the financial work of the Council; provide advice on the retention and safe custody of all accounting records; produce and circulate to relevant officers a set of guidance notes for the production of final accounts; present the Statement of Accounts for the year in question to the Council's external auditors; and retain copies of the Statement of Accounts;
- ◆ be informed of the existence of all 'unofficial funds' and shall issue and update accounting instructions for them where necessary; (n.b.) An 'Unofficial Fund' is any fund where the income and expenditure does not form part of the Council's accounts but which is controlled wholly or in part by an officer by reason of employment by the Council or employment, e.g. the Governors of a school or other semi-autonomous body);
- ◆ be authorised to pay all amounts to which the Council is legally committed;
- ◆ make imprest advances to officers for the purpose of defraying petty cash expenses and issue instructions on the control and operation on the imprest account;
- ◆ have the final approval to authorise arrangements for payments to be automatically debited from the Council's bank account;
- ◆ set out the arrangements necessary to ensure that all monies due are received and banked promptly;
- ◆ along with the Monitoring Officer, take all reasonable steps to obtain recovery of debts;
- ◆ be responsible for all Executive decisions on borrowing, investment or financing delegated to the Chief Finance Officer who shall be required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities;
- ◆ be responsible for the administration and day to day operation of the Council's borrowings for all purposes and shall raise, repay or vary the terms of loans as necessary.
- ◆ be the registrar for all stocks, bonds and mortgages of the Council and shall maintain records of all transactions relating thereto, and of all borrowings of money by the Council;
- ◆ be responsible for ensuring that secure arrangements are made for the preparation and holding of pre-signed cheques, stock certificates, bonds and other financial documents;



- ◆ ensure that adequate insurance protection is maintained for the Council's assets and operations where it is considered to be cost effective and appropriate;
- ◆ be responsible for the negotiation of all the Council's insurance contracts and have delegated responsibility for the maintenance of an adequate and effective internal audit;
- ◆ ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and ensuring that the risks have been fully appraised before agreements are entered into with external bodies;
- ◆ ensure that exemptions to Standing Orders must be recorded, signed by the Strategic/Assistant Director and countersigned by the Chief Finance Officer. All exemptions must be monitored;
- ◆ consult the Monitoring Officer and the Strategic Commissioning and Procurement Technical Manager where contracts to work for organisations other than the Council are contemplated;
- ◆ take advice from the Monitoring Officer, and the Strategic Commissioning and Procurement Officer must be consulted where contracts to work for organisations other than the Council are contemplated;
- ◆ ensure that Best Value and Partnership Arrangements comply with all United Kingdom and EC Procurement legislation and follow the usual principles in Standing Orders. The advice of the Monitoring Officer, and the Strategic Commissioning and Procurement Officer must be taken;
- ◆ The Chief Finance Officer shall have the power to make technical amendments to Standing Orders to make them consistent with legal requirements;

#### **IN CONTRIBUTING TO CORPORATE MANAGEMENT**

- ◆ contribute to the corporate management of the Council, in particular through the provision of professional financial advice;

#### **IN PROVIDING ADVICE/INFORMATION**

- ◆ 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 and the Elected Mayor and support and advise the Elected Mayor, councillors and officers in their respective roles;
- ◆ be responsible for issuing advice and guidance to underpin the financial regulations that the Elected Mayor, councillors and officers and others acting on behalf of the Authority are required to follow;
- ◆ be responsible for advising on effective systems of internal control. Those arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.
- ◆ provide advice on Risk with every Strategic/Assistant Director having a responsibility to support these initiatives;

- ◆ Provide financial information to the media, members of the public and the community.

## **MONITORING OFFICER**

### **STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES**

- ◆ The Monitoring Officer shall be the Council's chief legal officer.
- ◆ It is the duty of the Monitoring Officer to prepare a report to the Council with respect to any proposal, decision or omission by the Council, committee, sub-committee or officer which could give rise to unlawfulness, maladministration or injustice.
- ◆ In preparing the report there is a duty to consult with the Head of Paid Services and the Chief Finance Officer and then arrange for a copy of it to be sent to each member of the Authority.

The Monitoring officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **The Monitoring Officer will:**

#### **IN RELATION TO THE CONSTITUTION**

- ◆ provide an electronic copy of the Constitution to each member of the Authority, ensure a like copy is available for inspection by members, staff and the public on the Council's website, and ensure that and the Constitution is updated as necessary;
- ◆ maintain an up-to-date version of the Constitution;
- ◆ monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect;
- ◆ be aware of the strengths and weaknesses of the Constitution and make recommendations for ways in which it could be amended including observing meetings; undertaking audit trails of a sample of decisions; record and analyse issues raised by members, officers, public and stakeholders; compare practices with other comparable authorities or national examples of best practice;
- ◆ give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules;
- ◆ Be responsible for the system of record keeping in relation to all the full Council's decisions.

#### **IN RELATION TO STANDARDS**

- ◆ after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to full Council or to the Executive in relation to an Executive function if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report would have the effect of stopping the proposal or decision being implemented until the report had been considered;

- ◆ contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee;
- ◆ conduct investigations into complaints against elected and co-opted Members, which after consultation with an Independent Person appointed for such purposes, are felt to have breached the Council's Code of conduct and make reports or recommendations in respect of them to the Standards Committee;
- ◆ ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible;
- ◆ advise on whether decisions of the Executive are in accordance with the budget and policy framework;
- ◆ 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 and the Elected Mayor;
- ◆ be responsible for Corporate Complaints, Ombudsman Cases, reviewing the Constitution and Whistle Blowing;
- ◆ be responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation;
- ◆ be responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively;
- ◆ ensure that the Executive decisions and the reasons for them are made public;
- ◆ be responsible for advising the Elected Mayor, all councillors and officers about who has authority to take a particular decision;
- ◆ be responsible for referring to full Council any proposed variations to approved budgets, plans and strategies and which form part of the policy framework;
- ◆ be responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Authority;
- ◆ Receive written notice from the Elected Mayor on amendments to the scheme of delegation of Executive functions.

## **STATUTORY SCRUTINY OFFICER**

### **STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES**

It shall be the duty of the Statutory Scrutiny Officer

- to promote the role of the authority's Overview & Scrutiny Board and Scrutiny Panels
- to provide support to the authority's Overview & Scrutiny Board and Scrutiny Panels, and to the Members of those committees
- to provide support and guidance to:

- members of the authority, including members of the Executive of the Council;  
and
- officers of the authority,

in relation to the Council's overview and scrutiny functions.

All of the above shall also apply to any sub-Committee, working party or other arrangement that undertakes Scrutiny function within or on behalf of the Council.

The Scrutiny Officer will not be the authority's Head of Paid Service, monitoring officer or chief finance officer.

**The Statutory Scrutiny Officer will:**

- have responsibility for the overall management of the Council's Scrutiny functions as set out above;
- be responsible for the corporate and overall strategic development of the Council's Scrutiny functions;
- be responsible for establishing a framework for standards in respect of, and for the monitoring of, the performance of the Council's Scrutiny functions;
- report to full Council on the manner in which the Council's Scrutiny functions have been discharged;
- publicise the Council's Scrutiny functions within and outside the Council;

(Local Democracy, Economic Development and Construction Act 2009, s31)

## **COMPLAINTS MANAGER**

### **STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES**

It shall be the duty of the Complaints Manager:

- to ensure that the Council fulfils its requirements in relation to:
- representations made under the Children Act 1989;
- complaints made under the Health & Social Care(Community Health and Standards) Act 2003, and
- the requirements of Part III of the Local Government Act 1974
- to ensure best practice in relations to complaints and representation made to the Council
- to promote the authority's Complaint Procedures
- to provide support and guidance to Members of the authority, including members of the Executive of the Council and officers of the authority, in relation to the duties, practices and procedures in dealing with Complaints.

The above shall also apply to Independent Panels constituted under the requirements of the Children Act 1989 Representations Procedures (England) Regulations 2006.

**The Complaints Manager will:**

- have responsibility for the overall management and overview of the Council's Complaints functions as set out above
- be responsible for the corporate and overall strategic development of the Council's Complaints functions,

- be responsible for establishing, updating, maintaining and publishing the framework for standards and practice in relation to complaints (the Corporate Complaints Procedures)
- be responsible for the monitoring of the performance of the Council's Corporate Complaints Procedures
- report to full Council on the manner in which the Council's Corporate Complaints Procedures have been discharged
- publicise the Council's Complaints Procedures within and outside the Council;
- ensure that the directorates with responsibility for discharging those functions provided for within the Children Act 1989 Representations Procedures (England) Regulations 2006 and the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 meet the requirements of those regulations

### **JOINT STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES**

- ◆ The Head of Paid Service, in consultation with the Chief Finance Officer shall produce and circulate to all relevant officers a set of guidance notes for the production of the Capital Programme

#### **The Monitoring Officer and the Chief Finance Officer will**

- ◆ Give advice to the Executive, committees of the Executive, individual members of the Executive and any officers or joint arrangements discharging Executive functions on making decisions outside the budget or policy framework.
- ◆ Provide advice to the Overview and Scrutiny Board or a scrutiny panel on the process of call in of decisions, which if made, would be contrary to the policy framework or not in accordance with the Council's budget.
- ◆ Be responsible for advising the Executive or full Council whether a decision is likely to be considered contrary to or not wholly in accordance with the budget

#### **The Head of Paid Service and the Monitoring Officer will**

- ◆ Be responsible for the system of record keeping in relation to all the full Council's decisions

# PROPER OFFICER FUNCTIONS

## PROPER OFFICER FUNCTIONS

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1. The Council has appointed the following Proper Officers:
2. Head of Paid Service:
  - (i) Head of Paid Service (Local Government and Housing Act 1989).
  - (ii) Acceptance of declaration of office of Chair and Vice Chair of the Council (Section 83 Local Government Act 1972) .
  - (iii) Notwithstanding 3 (i) of the functions of the Monitoring Officer, the Head of Paid Service will be the Proper Officer for distribution of all papers relating to the Executive.
3. Monitoring Officer
  - (i) In relation to any reference in any enactments passed before or during the 1971–1972 session of Parliament, other than the Local Government Act 1972, or in any instrument made before 26<sup>th</sup> October 1972, to the Clerk of a Council or the Town Clerk of a Borough, which by virtue of any provision in the said Act, is to be construed as a reference to the Proper Officer of the Council.
  - (ii) Section 6(3) Sheriffs Act 1887.
  - (iii) Returning Officer and Electoral Registration Officer (Section 35 and Section 38 representation of the People Act 1983).
  - (iv) For the purposes of the Common Registration Act 1965 and the Commons Act 2006.
  - (v) Section 82 Representation of the People Act 1983 (Election candidates expenses).
  - (vi) Local Authorities (Members Interests) Regulations 1992.
  - (vii) Section 61(2A) Local Government (Miscellaneous Provisions) Act 1976 issue of certificate of decision of Executive.
  - (viii) Record of Executive Members prejudicial interests (Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments) Order 2001.
  - (ix) Determination of confidential and exempt reports and decisions of Executive (Local Authorities) (Executive Arrangements) (Access to Information) (England) Regulations 2000.
  - (x) Acceptance of declaration of office of members. (Section 83 Local Government Act).
  - (xi) Parish trustee (Section 13(3) Local Government Act 1972).
  - (xii) Receipt of declaration of resignation of office (Section 84 Local Government Act 1972).

- (xiii) Convening Council meeting to fill casual vacancy of Chair (Section 88(2) Local Government Act 1972).
- (xiv) Receipt of Notice of casual vacancy from 2 local government electors (Section 89(1)(b) Local Government Act 1972.)
- (xv) Receipt and keeping of record notice of pecuniary interests (Section 96 Local Government Act 1972).
- (xvi) Access to information (Section 100 B-F Local Government Act 1972).
- (xvii) Charity functions of offices with existing authorities transferred to holders of equivalent office with new authority (Section 210(6) and (7) Local Government Act 1972).
- (xviii) Deposit of documents (Section 225(1) Local Government Act 1972)
- (xix) Certification of photographic copies of documents (Section 229(5) Local Government Act 1972).
- (xx) Authorisation of documents (Section 234(1) and (2) Local Government Act 1972).
- (xxi) Copies of Bye-laws (Section 236(9) and (10) Local Government Act 1972).
- (xxii) Certification of Bye-laws (Section 238 Local Government Act 1972).
- (xxiii) Roll of Freeman (Section 248 Local Government Act 1972).
- (xxiv) Signature of summonses to Council meetings (Schedule 12 para 4(2)(b) Local Government Act 1972).
- (xxv) Receipt of notices of addresses to send summonses (Schedule 12 para 4(3) Local Government Act 1972).
- (xxvi) Certificate of resolutions (Schedule 14 para 25(7) Local Government Act 1972).
- (xxvii) Receipt a deposit of lists of protected buildings (Schedule 16 para 28 Local Government Act 1972.)
- (xxviii) Rent Office Service (Section 63 Rent Act 1977).
- (xxix) Receipt of notification from The Elected Mayor of the appointment and terms and conditions of appointment of The Elected Mayor's Assistant (The Local Authority Elected Mayor's and Mayor's Assistants Regulations 2002 (2002 SL 975).
- (xxx) Proper Officer for the purpose of the Registration Services Act 1953.
- (xxxi) Politically restricted post (Section 2 Housing and Local Government Act 1989) as amended by the Local Government and Public Involvement in Health Act 2007
- (xxxii) Monitoring Officer (Local Government and Housing Act 1989)



4. Chief Finance Officer
  - (i) Proper administration of financial affairs (Section 151 Local Government Act 1972).
  - (ii) In relation to any reference in any enactment or instrument to a Borough Treasurer or Treasurer which, by any such provision is to be construed as a reference to the Proper Officer of the Council.
  - (iii) Receipt of money due from officers (Section 115 Local Government Act 1972).
  - (iv) Declarations and certificates with regard to securities (Section 146(1)(a) and (b) Local Government Act 1972.)
5. Head of Human Resources
  - (i) Politically restricted post (Section 2 Housing and Local Government Act 1989) as amended by the Local Government and Public Involvement in Health Act 2007.
6. Assistant Director Environment, Property & Commercial Services
  - (i) To receive applications under Section 1 Ordnance Survey Act 1841.
  - (ii) In relation to any reference in any enactment or instrument to a Borough Engineer, Borough Surveyor, Surveyor or Head of Engineering which by any provision of the Local Government Act 1972, is to be construed as a Proper Officer of the Council.
  - (iii) Traffic Manager –Traffic Management Act 2004.
7. Assistant Director Public Health
  - (i) In relation to any reference in any enactment or instrument to a Sanitary Inspector or Public Health Officer, which by any such provision is to be construed as a reference to the Proper Officer of the Council.
  - (ii) Representation of unfit houses (Section 606 Housing Act 1985).
  - (iii) Receipt of application for Licence under Schedule 2 Licensing Act 1964.
8. Assistant Director Social Care
  - (i) The Proper Officer appointed under Section 6 of the Local Authority Social Services Act 1970
9. Strategic Director of Children's Services
  - (i) The Proper Officer appointed under Section 18 of the Children Act 2004.