

THE CHAIR AND ALL MEMBERS OF THE COUNCIL

Tuesday 20 July 2021

Dear Member

COUNCIL - WEDNESDAY 28TH JULY, 2021

You are hereby summoned to attend a meeting of the Council of the Borough of Middlesbrough to be held on **Wednesday 28th July, 2021** at **7.00 pm** in the Main Hall, in the Town Hall to transact the following business, namely:-

1. Apologies for Absence
2. Declarations of Interest
To receive any declarations of interest.
3. Minutes- Council - 7 July 2021 3 – 10
4. Announcements/Communications
To receive and consider any communications from the Chair, Mayor, Executive Members or Chief Executive (if any).
5. Questions from Members of the Public (if any).
6. Mayor's Statement and Report
7. Report of the Overview and Scrutiny Board 11 – 16
8. Urgent Items
To consider and Deal with any urgent business brought before the Council by the Proper Officer (if any).
9. Notice of Motions 17 – 18
10. Notice of Urgent Motions (if any)
11. Members' Question Time (if any)
12. Community Governance Review 19 – 26

13.	Update to the Constitution	27 – 36
14.	Revised Members' Code of Conduct	37 - 68

Charlotte Benjamin, Director of Legal and Governance Services

Copies of the agenda may be downloaded from the Council's Website.

Questions / Motions – Details of questions or notices of motion received and not enclosed with the Summons will be circulated prior to the meeting.

Should you have any queries in regard to the items on this agenda please contact Bernie Carr, Democratic Services on (Direct Line 01642 729714 or e-mail on: bernie_carr@middlesbrough.gov.uk).

Address: Democratic Services, Middlesbrough Council, Town Hall, Middlesbrough TS1 9FX

Website: www.middlesbrough.gov.uk

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COUNCIL

A meeting of the Council was held on Wednesday 7 July 2021.

PRESENT: Councillors J Hobson (Chair), A Bell (Vice-Chair), R Arundale, D Branson, C Cooke, B Cooper, D Coupe, D Davison, S Dean, C Dodds, A Hellaoui, T Higgins, A High, C Hobson, B Hubbard, N Hussain, D Jones, L Lewis, L Mason, T Mawston, D McCabe, C McIntyre, J McTigue, M Nugent, J Platt, E Polano, A Preston (The Mayor), G Purvis, J Rathmell, J Rostron, R Sands, M Saunders, M Smiles, M Storey, P Storey, J Thompson, Z Uddin, J Walker, S Walker and G Wilson

OFFICERS: B Carr, C Benjamin, S Bonner, C Breheny, Z Farrow, D Johnson, S Lightwing, S Reynolds and K Whitmore

21/12 **APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Furness, Garvey, Hill, Rooney, Waters and Wright.

21/13 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

21/14 **MINUTES- COUNCIL - 26 MAY 2021**

The minutes of the Council meeting held on 26 May 2021 were submitted and approved as a correct record.

21/15 **ANNOUNCEMENTS/COMMUNICATIONS**

The Chair of the Council announced with sadness, the death of Councillor June Goodchild on 6 July 2021.

June was elected in May 2015 to serve the Ladgate Ward. June was a member of a number of different scrutiny panels and was a long standing member of the Licensing Committee.

The Chair advised that, prior to her election as a Councillor, June was recognised in a number of different ways. June was made an MBE in 2007 for her voluntary work in Easterside and she also received a Mayor's award on 30 January 2013.

All present stood in silence as a mark of respect.

Councillor McTigue, Councillor Mawston and Councillor Higgins paid tribute to June Goodchild.

21/16 **QUESTIONS FROM MEMBERS OF THE PUBLIC (IF ANY).**

There were no valid questions submitted from members of the public for this meeting.

21/17 **MAYOR'S STATEMENT AND REPORT**

June Goodchild

The Mayor paid tribute to June Goodchild and sent his condolences to her family.

Covid

The Mayor advised that infection rates were growing and the North East had one of the highest rates of infections. The Mayor stated that the link between infection rates,

hospitalisation and death was breaking down. He stated that there was still a link and everyone should still follow the rules, but people should not be as fearful as they were, they should move forward with cautious confidence, however everyone should be encouraged to have the vaccination.

The Mayor stated that Middlesbrough had a very young population compared to the everywhere in the Tees Valley and the North East except Newcastle. Vaccinations were generally being targeted at older people, and as a consequence, Middlesbrough had carried out less vaccinations on young people compared to other towns. The Mayor advised that the people rolling out the vaccinations and the Public Health Team were working hard to ensure that everyone that was entitled to, had access to vaccinations. Middlesbrough had some hard to reach people, and that there was a link between deprivation and people not having the vaccine. He advised that Middlesbrough had more deprivation than anywhere in the North East and although it was a challenge, everything was being done to ensure people were vaccinated.

Crime

The Mayor advised that a meeting had been held with the new Police and Crime Commissioner. The Mayor had been talking to residents and their view was that dangerous crime was polluting the streets and intimidating the public and trying to intimidate their rivals. This was not just an issue in Middlesbrough, it was a national and international problem. Cleveland Police did not have as high an armed response compared to other forces compared to the level of violent crime. The Mayor advised that he was against arming the police. The Police needed to take control.

Anti-Social Behaviour

The Mayor advised that he was embarrassed and ashamed at the state of some back alleys. The state of the alleys was damaging mental health and investment in the town. More cameras were due to be installed. The Mayor stated that in the past, Middlesbrough had not been tough enough in relation to the enforcement against people carrying out fly-tipping. He referred to a recent fly-tipping case where a vehicle suspected of being used to carry out fly-tipping had been seized. There was now a dedicated fly-tipping squad to enable more enforcement action to take place.

Children's Services

The Mayor advised that there had been historical issues with Middlesbrough's Children's Services which had resulted in it being the worst and most expensive in the country.

The Mayor advised that due to the hard work of staff the service had improved and all the right steps were being taken to ensure continuous improvement.

Queen's Jubilee

The Mayor advised that it was the Queen's Jubilee in 2022, and as part of the celebrations, the Queen usually awarded "city status" to a number of towns. Middlesbrough had applied for city status a number of times in the past, but had been unsuccessful.

The Mayor advised that he was interested in applying, but it should be down to the people of Middlesbrough, the stakeholders and the businesses to decide whether Middlesbrough should apply for city status. The initial response to a survey had indicated that most people would support an application for city status. He advised that he and the Deputy Mayor would be meeting the university, the college and the Northern school of arts and other large employers to gain support for the bid. Councillors would also have the opportunity to vote on the bid.

Councillor McTigue advised that at the moment there was a reliance on councillors to report fly-tipping. Councillor McTigue stated that fly-tipping should be removed immediately, but at the moment, there did not appear to be enough staff that were aware of where the hot spots were located. The hot spots needed to be identified to staff so that they go out every other day to inspect the areas. Councillor McTigue advised that she had sent the Mayor two photos of instances of fly-tipping and she stated that it must have taken weeks for the those areas to get into such a state. Councillor McTigue stated that although councillors would continue to report

instances of fly-tipping, there should not be a reliance on them to do so.

The Mayor advised that fly-tipping was an issue and he urged people to keep reporting any instances to the Council.

In relation to the proposed bid by the town for city status, Councillor McTigue queried with regard to what the parameters were in order for the town to bid for city status, what the cost would be and what benefits it would bring to the town.

In terms of bidding for city status, the Mayor advised that there was no requirement to have a cathedral or a university, but the town needed to put a good case forward to demonstrate how they would benefit from city status. The Mayor advised that he would find out the costs, and would be willing to discuss the bid with any councillor that was interested.

Councillor Cooke referred to crime and he indicated that although he was in favour of enforcement, one of the things that was concerning was the lack of support for victims. The PCC had removed the funding for Newport's Victim Care Advice and Support Officer. If the Council were unable to find funding, the post would no longer exist from September 2021. Councillor Cooke stated that he would like to see the role retained as people who were the victims of crime needed to be supported. The current post holder was doing an excellent job and over the last two years had saved many peoples' lives. The importance of this role needed to be recognised by the police.

In terms of reporting of fly-tipping, Councillor Cooke expressed concern regarding the fact that reports of fly-tipping by Street Wardens were not being treated as seriously as reports from councillors. He requested that an audit be carried out in respect of fly-tipping identified by wardens to see if fly-tipping identified with a Street Warden sticker was being removed.

Councillor M Storey stated that fly-tipping was becoming a real issue within the ward because people were not willing to wait twelve weeks for the free bulky waste collection service which resulted in fly-tipping. There was currently over 500 outstanding fly-tipping cases, and Councillor Storey stated that whilst he praised the efforts of the fly-tipping squad and enforcement, there needed to be an audit to look into how the fly-tipping and the bulky waste collection was functioning and to look at how the Council could do it differently and whether it could be done in a better way.

Councillor Storey stated that he recognised that there was a major problem with Children's Services and officers had worked really hard to resolve the issues. There were underlying social issues that had caused these problems. Councillor Storey stated that the Mayor had mentioned deprivation being a pressure. There had been cuts to Sure Start and cuts to Public Sector Funding over many years. The support for early help to prevent children being taken into care in the first place was no longer there, so the council was having to deal with issues once the children had already been taken into care. It would be much better to deal with issues with children in the early stages to prevent them having to be taken into care.

In terms of the bid for "city status", Councillor Storey advised that he would be very supportive of any bid, it was ambitious and Middlesbrough was just as important as any other city.

The Mayor agreed that Children's Services was a big challenge, the town had massive deprivation. Other deprived areas did better than Middlesbrough.

The Mayor advised that fly-tipping was a crime that affected people's mental health and it should not be linked with the bulky waste service. Middlesbrough provided the bulky waste service for free.

Councillor Higgins stated that fly-tipping was an issue faced by all councilors. More staff were needed to deal with the issue. The staff currently employed for this purpose were doing a great job, but more staff were needed.

The Mayor stated that the problem in the past was that the Council hardly ever prosecuted fly-tippers but there had been an increase in enforcement due to the new fly-tipping flying squad. The Mayor stated that the team were doing an incredible job and there was a new attitude from the Council in relation to enforcement action against fly-tippers.

Councillor McTigue queried whether cameras could be installed in known hot spots.

The Mayor advised that 100 new cameras had already been installed around the town at a cost of £4000 each and it was agreed at Executive that additional cameras would be purchased. Members should indicate if cameras were required within their ward and this would be taken into consideration when placing the cameras. The Mayor advised that cameras deterred crime, made residents feel safer and helped catch criminals.

21/18 **REVISED EXECUTIVE SCHEME OF DELEGATION**

The Mayor outlined a number of changes to his Executive Scheme of Delegation. He advised that the new Executive was smaller, focussed, committed to Middlesbrough and it cost less.

ORDERED that the changes to the Executive Scheme of Delegation be noted.

21/19 **EXECUTIVE MEMBER REPORTS BOOKLET**

The Chair invited Members to raise items for general discussion arising from the Information Booklet of Executive Member reports which detailed activities carried out within the respective Executive Member portfolios (Section 1), Executive decisions taken (Section 2) or to be taken where known, prior to and following the meeting (Sections 3 and 4).

Question on the Executive Member for Environment, Finance and Governance report

Councillor Thompson in relation to the pot hole programme.

In response to Councillor Thompson's query with regard to whether the pot hole programme had ended, how much the programme had cost and whether the remaining pot holes would be repaired, the Executive Member advised that the programme was ongoing. Engineers were assessing the remaining pot holes and would prioritise them to ensure that the worst pot holes would be repaired first. In terms of the cost of the programme, the Executive Member advised that he did not have the information to hand, but he would forward it to Councillor Thompson in due course.

Questions on the Deputy Mayor and Executive Member for Culture and Communities report

Councillor Uddin in relation to alleygates.

In response to the question from Councillor Uddin about upgrading and decorating back alleys and the installation of alley gates, the Deputy Mayor and Executive Member for Culture and Communities stated that the installation of new alley gates was not just about the cost, other factors needed to be considered such as rights of way and who would have responsibility for the alley gates. The Deputy Mayor and Executive Member for Culture and Communities advised that the Head of Stronger Communities was currently looking into the legalities surrounding the installation of new alley gates and an update would be provided to the councillor once this process was completed.

The alley project was progressing well. 6 alleys had already been completed and 13 alleys were on the waiting list to be completed. The Deputy Mayor and Executive Member for Culture and Communities advised the councillor to contact her if he wished to go ahead with transforming alleys without the alley gates.

Councillor Branson in relation to community safety - motor bike nuisance.

In response to the question from Councillor Branson in relation to motor bike nuisance and the possibility of installing CCTV and other preventative measures, the Deputy Mayor and Executive Member for Culture and Communities advised that off road motor bikes were a blight on the community as well as being noisy and dangerous. The Deputy Mayor acknowledged that there had been issues with motor bikes on the fields in Coulby Newham, and the Council could look at the use of CCTV to tackle this as well as other measures. Operation Endurance was intelligence led and they could be asked to specifically look at the Coulby Newham area. As part of their work, they seized the vehicles that were causing the

nuisance.

Councillor J Walker in relation to keeping members informed of activities within their wards.

In response to a question from Councillor Walker requesting if all councillors could be informed of any work or initiatives taking place in their wards, in advance of the work taking place, the Deputy Mayor and Executive Member for Culture and Communities thanked Councillor Walker for her comments and for wanting to be involved in the litter picking initiative. The Deputy Mayor stated that all those members of the public who had taken part in the litter picks should be thanked for their participation. In terms of councillors being made aware of upcoming litter picks, the Deputy Mayor advised that councillors had been sent emails advising of the dates, the information was placed on the Council website. There was a specific website page dedicated to litter picking.

Councillor Walker advised that some alleyways in her ward had been refurbished but she had not been informed. The Deputy Mayor advised that an email had been sent to all councillors in May regarding the Keep Borough Tidy initiative. Some councillors had been involved. Residents and residents groups needed to be encouraged to become involved in the initiative.

Councillor Cooper stated that he was pleased to see that Councillor Walker was passionate about becoming involved in the litter picking initiative. He advised that he had been involved with the community champion initiative prior to becoming a councillor. The groups involved in litter picking were not employed by the Council, and they sent emails out advising where the litter picking was being carried out, He stated that he was trying to make sure that the full bags of litter were picked up straight after the litter picking had ended. He stated that the volunteers deserved thanks for going out in all weather and he stated that he would be willing to pull together a timetable of litter picks and circulate it to all councillors.

Question on the Mayor's Executive Member report

Councillor Uddin in relation to recruitment of social workers

In response to the question in relation to the recruitment of permanent social workers, the Mayor acknowledged that there were issues with different rates of pay being offered to social workers around the country and various different incentives used by authorities to attract social workers together with issue around the number of cases that social workers were required to handle. The Council employed a number of agency staff but this was expensive so it was important to attract permanent staff to the role. The Mayor advised that he could not speak in place of the Director of Children's Services so he would get a response from the Director in relation to this issue.

Councillor Uddin in relation to the rough sleepers initiative

In response to Councillor Uddin's comment in relation to the excellent work being carried out in relation to rough sleepers, the Mayor advised that the staff were working very hard to assist rough sleepers, but sadly, some rough sleepers chose to sleep on the street although facilities were available to assist them. The Mayor commented on the fantastic work being carried out by the team.

Questions on Executive Member for Education report

Councillor Hellaoui posed the following questions in the absence of the Executive Member:

(Special Educational Needs and Disability)

Question one:

Your report states that Middlesbrough's position is 90th in the country in terms of timely completion of timely EHCP plans question. How is this position related to numbers of young people who apply for EHCP plans across Middlesbrough compared with the rest of the country?

Question 2:

How many EHCP (Education Health and Care Plans) did Middlesbrough schools process in 2020 2021?

How many children do we have in Middlesbrough's Primary Schools with EHCPs and how many are there in Secondary Schools and other school environments?

Question three:

How many completed EHCPs completed in 20 weeks were actually successful?
How many did not get past this application process?

Question four:

What progress our children making with EHCP plans?
How do we monitor their progress?
How do we track that the plans are effective?

Question five:

What percentage of youngsters with EHCPs continue their education into FE/HE?
What proportion of children with EHCPs are Children Looked After?
(Are our CLA prioritised in terms of the EHCP plans?)

Question six:

What data do we have that links Youth Offending with EHCPs?

Question seven:

Are there are limits to the number of EHCPs any particular group of schools can apply for?

Question eight?

It says in your report:
"Each year SEN2 data is published nationally which shares key information regarding a number of SEN data sets".

Could you confirm exactly what is included in the data sets?

21/20 **REPORT OF THE OVERVIEW AND SCRUTINY BOARD**

The Chair of the Overview and Scrutiny Board submitted a report, the purpose of which was to provide an update on the current position regarding progress made by the Overview and Scrutiny Board and each of the individual Scrutiny Panels.

ORDERED that the report be noted.

21/21 **URGENT ITEMS**

There were no Urgent items submitted within the specified deadlines for this meeting.

21/22 **MEMBERS' QUESTION TIME**

There were no questions from Members submitted within the specified deadlines for this meeting.

21/23 **NOTICE OF MOTIONS**

There were no Notice of Motions submitted within the specified deadlines for this meeting.

21/24 **NOTICE OF URGENT MOTIONS (IF ANY)**

There were no Notice of Urgent Motions submitted within the specified deadlines for this meeting.

21/25 COMMUNITY GOVERNANCE REVIEW

The report in relation to the Community Governance Review was deferred to the Council meeting scheduled for 28 July 2021.

21/26 UPDATE TO THE CONSTITUTION

The report in relation to the Update to the Council Constitution was deferred to the Council meeting scheduled for 28 July 2021.

21/27 COUNCIL COMMITTEES AND OUTSIDE BODIES - VACANCIES

Council received a report which sought Members' approval to nominations for appointment, arising from vacancies deferred at the Annual Meeting of Council and resignations from Committees.

The report included a list of current vacancies on various committees and Outside Bodies and nominations were put forward at the meeting by individual members.

ORDERED that the following vacancies allocated in accordance with the wishes of the political groups and other councillors be approved by Council:

Committees

Live Well South Tees Board
2 Vacancies: Councillor Thompson appointed
Still 1 Vacancy

Constitution and Members Development Committee
1 Vacancy: Councillor J Thompson appointed

Children and Young People's Learning Scrutiny Panel
1 Vacancy: Chair of Children and Young People's Learning Scrutiny Panel: Open to all Members of Children and Young People's Learning Scrutiny Panel: Councillor McCabe appointed

Licensing Committee
1 Vacancy: Councillor McCabe appointed

Outside Bodies Vacancies**Appendix A – Appointments by Council**

River Tees Port Health Authority
1 Vacancy – Councillor Branson appointed

Tees Valley Health Scrutiny Committee
1 Vacancy: Originally a MICA place. No nominations
Open to all Councillors: Councillor Coupe appointed

Northumbria Regional Flood Defence Committee (will also be required to sit on the Tees Valley Flood Risk Partnership)
1 Vacancy – Open to all Councillors: Councillor Cooper appointed

Tees Valley Community Foundation – The Endowment Funds Advisory Board
1 Vacancy – Councillor Uddin appointed

Appendix C – Appointments by Executive

(ANEC) Resources Task and Finish Group
1 Vacancy – Open to all Councillors - No Nominations - 1 Vacancy

Family Placement Panel
1 Vacancy – Open to all Councillors - Councillor Hellaoui appointed

Tennis World
2 Vacancies – Councillor Davison and Councillor Mawston appointed

21/28 **APPOINTMENT OF HONORARY RECORDER OF MIDDLESBROUGH**

Council received a report which sought approval to the appointment of His Honour Judge Paul Watson QC as Honorary Recorder of Middlesbrough, with immediate effect and for the duration of his tenure of the post of Senior Circuit Judge at Teesside Combined Court Centre.

ORDERED that the appointment of His Honour Judge Paul Watson QC as Honorary Recorder of Middlesbrough, with immediate effect and for the duration of his tenure of the post of Senior Circuit Judge at Teesside Combined Court Centre be approved.

21/29 **STANHOPE CASTLE UPDATE**

The Mayor provided members with an update in relation to Stanhope Castle.

He explained the background to the issue. The Mayor stated that the Council would do everything it could to improve communication with the people affected.

The Mayor advised members that when the tribunal provided the Council with guidance to say what it was able to do, the Council would follow that guidance.

The Mayor advised that the Council would provide regular updates to the people affected, even if there was nothing to report.

ORDERED that the update be noted.

21/30 **EXCLUSION OF PRESS AND PUBLIC**

ORDERED that the press and public be excluded from the meeting for the following item on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

21/31 **EXEMPT REPORT - REVIEW OF POLITICAL SUPPORT**

Council received an exempt report to consider the level of support provided to political groups.

Dependent upon the outcome of Council considerations it was recommended that Council adopt the proposed Political Assistant Protocol.

ORDERED as follows:

1. That Council retains the Political Assistant role and allows for up to 3 x FTE Political Assistants, at the Grade and salary as indicated in the report. The number of hours required by each group to be (up to 1FTE - 37hrs) subject to the requisite 10% membership. Recruitment would be subject to Council recruitment policies however appointment and number of hours would be subject to the wishes of the groups who were entitled to a Political Assistant as per the Act.
2. That Council adopts the proposed Political Assistant Protocol.
3. That the Constitution be amended to reflect the revised arrangements for the level of support provided to political groups.

MIDDLESBROUGH COUNCIL	
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COUNCIL

Report title	Scrutiny Progress Report
Chief Executive or Director	Director of Legal and Governance Services
Date	28 July 2021

Summary

Proposed decision(s)
To update the position in respect of the Council’s Overview and Scrutiny Board and scrutiny panels. The current position regarding progress made by the Board and each of the panels is set out below.

Report for:	Key decision:	Confidential/Exempt:	Is the report urgent?
To be noted	No	No	Non-urgent report

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
N/A	N/A	Members will be able to keep abreast of the work carried out through the Scrutiny Process
Ward(s) affected		
No wards in Middlesbrough are directly affected.		

What is the purpose of this report?

1. To update the position in respect of the Council’s Overview and Scrutiny Board and scrutiny panels.

Why is this report necessary?

2. The report is necessary so that Members are aware of the work being carried out by the individual Scrutiny Panels and the Overview and Scrutiny Board.

What decision(s) are being asked for?

3. That Council note the report.
4. The current position regarding progress made by the Board and each of the panels is set out below.

OVERVIEW AND SCRUTINY BOARD

The Overview and Scrutiny Board met on 29 June 2021.

At the 29 June 2021 meeting, the Board considered / received information in respect of the following:

- Executive Forward Work Programme;
- Chief Executive's Update
- Town Centre Regeneration Update
- Strategic Plan 2020-23 – Progress at Year-End 2020/2021
- Revenue and Capital Budget – Year-End Outturn Position
- Ad-Hoc Scrutiny Panel – Final Report – Members Communications
- Scrutiny Chairs Updates

SCRUTINY PANEL UPDATES

The updated position in respect of the work of each of the Council's scrutiny panels is shown below.

Adult Social Care and Services Scrutiny Panel

The Adult Social Care and Services Scrutiny Panel met on 7 July 2021.

The Director of Adult Social Care and Health Integration was in attendance at the meeting and provided an overview of the service area.

The Panel discussed and selected topics for the Work Programme 2021/2022, which were forwarded to the Overview and Scrutiny Board for approval.

A proposed meeting schedule for the 2021/2022 Municipal Year was approved.

The next meeting is scheduled to be held on 1 September 2021 when the Panel will receive information in respect of Adult Day Care Services.

Children and Young People's Learning Scrutiny Panel

The Scrutiny Panel last met on 28 June 2021. At the meeting Rob Brown, the Director of Education, Prevention and Partnerships; Karen Smith, the Head of Achievement, Education, Prevention and Partnerships and Caroline Cannon, the Strategic Lead for Inclusion and Specialist Support Services provided the Scrutiny Panel with an overview of the main service areas within its remit and an outline of priorities, key issues and challenges for the year ahead.

The Scrutiny Panel also considered its work programme for 2021/22, the following topics were agreed and will be submitted to the Overview and Scrutiny Board for approval:

In-depth reviews

- Special Educational Needs and Disabilities (SEND)
- The Impact of COVID-19 on Education and the Council's Recovery Plan

Short review/one-off meeting

- Post-16 Education

The next meeting is scheduled to be held on 26 July 2021. At this meeting, the Scrutiny Panel will receive an update on its previous review of Addressing Poverty Issues and the Impact on Learning and it will also consider the draft final report on Behaviour, Discipline and Bullying in Schools.

Children and Young People's Social Care and Services Scrutiny Panel

The Scrutiny Panel is due to meet on 27 July 2021 at 4.00pm.

The Executive Director of Children's Services will provide the Panel with an overview of the services within the Panel's remit and outline the priorities, challenges and pressures for the year ahead. The Panel will also consider its work programme for 2021/22.

Culture and Communities Scrutiny Panel

The Culture and Communities Panel met on 15 July 2021.

The Directors of Environment and Community Services, and Regeneration and Culture were in attendance at the meeting and provided an overview of their service areas.

The Panel discussed and selected topics for the Work Programme 2021/2022 which were forwarded to the Overview and Scrutiny Board for approval.

Economic Development, Environment and Infrastructure Scrutiny Panel

The Economic Development, Environment and Infrastructure (EDEI) Scrutiny Panel met on 30 June 2021.

The Directors of Environment and Community Services, and Regeneration and Culture were in attendance at the meeting and provided an overview of their service areas.

The Panel discussed and selected topics for the Work Programme 2021/2022 which were forwarded to the Overview and Scrutiny Board for approval.

A proposed meeting schedule for the 2021/2022 Municipal Year was approved.

Following the submission of a Final Report on Pest Control to Executive, Councillor Hubbard provided verbal feedback on the service area's response to the Panel's recommendations and the Executive's approval of that response.

The next meeting is scheduled to be held on 21 July 2021 when the Panel will continue with its current review of Middlesbrough Regeneration Post Covid-19 with presentation in relation to support and grants provided to local businesses by Middlesbrough Council during the pandemic.

Health Scrutiny Panel

The Health Scrutiny Panel met on 13 July 2021 where the Panel considered the latest Quality Accounts document from South Tees Hospital Trust. The Deputy Director of Quality and Safety supported by the Chief Nurse and Clinical Director of Medicine presented the Panel with the achievements and challenges the Trust had faced in 2020/21 and could face in 2021/22. The Panel heard how the Trust had continued to deliver excellent care and procedures despite operating within the confines of Covid restrictions. Such procedures included innovative cardiothoracic surgical practices using MitraClips. The Panel also heard how, before the programme moved to Primary Care, the Trust had administered 134,000 swab tests and 71,000 vaccines as part of its continuing fight in the Covid Pandemic. The Panel challenged the Trust on poor performance indicators but were assured that this was not unique to South Tees and that this trend was apparent in most Trusts nationally.

The Panel also received an update in respect of COVID-19 from the Director of Public Health (South Tees).

At its next meeting on 7 September the Panel will start gathering evidence into its review of Health Inequalities from representatives from Newcastle University and the Institute of Public Policy Research.

SCRUTINY REPORTS SUBMITTED TO EXECUTIVE

Since the last update to Council, the following Scrutiny Panel reports have been submitted to Executive:

13 July 2021 - Final Report – Culture and Communities Scrutiny Panel – Community Cohesion – Service Response

Other potential decisions and why these have not been recommended

5. No other options were considered.

Impact(s) of recommended decision(s)

Legal

6. There are no legal implications as a result of the proposed appointments.

Financial

7. There are no financial implications arising from this report.

The Mayor's Vision for Middlesbrough

8. The report is line with the Mayor's vision for Middlesbrough.

Policy Framework

9. The report does not impact on the overall budget and policy framework.

Wards

10. The report does not impact on wards.

Risk

11. Not applicable.

Equality and Diversity

12. An Impact Assessment has not been completed, as it is not applicable.

Actions to be taken to implement the decision(s)

13. Not applicable.

Background papers

14. No unpublished background papers were used in the preparation of this report.

**COUNCILLOR M SAUNDERS
CHAIR OF OVERVIEW AND SCRUTINY BOARD**

Contact Officer:

Caroline Breheny

Democratic Services

Telephone: 01642 729752 (direct line)

Email: caroline_breheny@middlesbrough.gov.uk

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COUNCIL MEETING – 28 JULY 2021
NOTICE OF MOTION

COUNCIL PROCEDURE RULE NOS. 53-60

MOTION NO.	PROPOSER	SECONDER	MOTION
147	Councillor M Storey	Councillor Furness	<p>Motion: Freedom of the Borough</p> <p>“That Council, in accordance with Procedure Rule 7(a)(ii) of the constitution of Middlesbrough Council agree a resolution to call an Extraordinary meeting of the Council for the purposes of awarding the Freedom of the Borough to Mr Gareth Southgate OBE.</p> <p>After some of the most difficult and tragic 18 months this country has faced, this England football team led by Gareth Southgate has given everyone some much needed hope and joy. In difficult times, Gareth Southgate has united England with his unifying presence, leadership and quiet charisma. As a former Captain and manager of Middlesbrough Football Club, Gareth has a unique connection with our town. This Council believes it is fitting to award him the Freedom of the Borough.”</p>
148	Councillor Arundale	Councillor Waters	<p>Motion: Planning Applications</p> <p>“The MIG Group ask that this Council support the House of Commons cross party agreement in stating we believe planning works best when developers and the local community work together to shape local areas and deliver necessary new homes, and therefore call on the Government to protect the right of communities to object to individual planning applications. ”</p>
149	Councillor Mason	Councillor Coupe	<p><u>Motion: Middlesbrough for City Status Motion:</u></p> <p>As part of Her Majesty Queen Elizabeth II’s Platinum Jubilee celebrations to mark her 70 years on the throne, local authorities are being given the opportunity to enter a competition to be granted official city status. This civic honors competition will grant local authorities this opportunity for the first time in 10 years.</p>

Middlesbrough is a town with a long and colourful history, perhaps most famous for its world-renowned iron and steel industry which has contributed to many projects around the world. Gladstone famously referred to us as 'The Infant Hercules' and our motto is 'Erimus' meaning 'we shall be'. We should not only be immensely proud of this history and heritage but, like our motto indicates, do everything we can to build on it moving forward.

We have a world class hospital, respected university and educational establishments, proud football club with an international fan base and so very much more. We have also always been a place that is welcoming to all. As it stands, we are one of the biggest metropolitan areas in the country without a city at its heart – and one of the biggest towns in the country without city status.

By entering this competition to become a city, we have a chance to build on our legacy and open a new chapter. If Middlesbrough was to become a city it would almost certainly become a more attractive destination to future investors, encourage job creation and help share our town's story further still.

But regardless of our thoughts as Conservative councillors, the most important thing to consider is that there is clear support from residents in Middlesbrough to submit an application for city status. This was demonstrated by a recent poll held by the council where residents overwhelmingly backed making a submission. We think it's only right that we listen to the people and act on their behalf.

This council therefore resolves:

That a formal bid should be submitted by this Council on behalf of the people of Middlesbrough to be granted official city status.

Report of:	Tony Parkinson - Chief Executive and Returning Officer Councillor Barrie Cooper Executive Member for Environment, Finance and Governance
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Submitted to:	<i>Full Council 28 July 2021</i>
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Subject:	Community Governance Review
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Summary

Proposed decision(s)
<p>The Council is asked to:</p> <ol style="list-style-type: none"> 1. Agree that a Community Governance Review be undertaken across the whole of the Council’s area under the terms of Chapter 3 of Part 4 of the Local Government and Public Involvement and Health (LGPIH) Act 2007; 2. Approve the timetable for the review outlined in Appendix A; 3. Council delegate to Corporate Affairs and Audit Committee, consideration and agreement of a Terms of Reference for the review and any consultation responses to the review with final recommendations referred back to Council for approval.

Report for:	Key decision:	Confidential:	Is the report urgent? ¹
<i>Decision</i>		No	No

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
<p>Recommendations made in a community governance review ought to bring about improved community engagement, more cohesive communities, better local democracy and result in more effective and convenient delivery of local services.’</p>		

Ward(s) affected
All Wards

What is the purpose of this report?

1. This report seeks agreement from Council to conduct a 'Community Governance Review' for the whole of the Council's area to include Parish and Community Councils.

Why does this report require a Member decision?

2. Councils are required to have regard to guidance issued by the Secretary of State and the Boundary Commission. Guidance suggests that it is good practice for a principal council to consider conducting a Community Governance Review every 10-15 years. It is now over fifteen years since a review was last undertaken in Middlesbrough.
3. A request has been made by Nunthorpe Parish Council to reconsider its current boundaries and therefore it is considered timely to conduct a review of the whole of the Council's area and that any decisions to make changes to parish arrangements would be implemented at the next full parish elections in 2023.
4. Community Council's operate on a less formal footing i.e. they are not democratically elected like Parish Councils are, however, they play an equally strong part in representing communities and acting as another mechanism for the Council to consult with communities at a very local level. Therefore we propose to include Community Council's in the Community Governance Review consultation.

Report Background

What is a Community Governance Review?

5. A Community Governance Review is a review of the whole part or part of the district area to consider one or more of the following:
 - a) Creating, merging, altering or abolishing parishes;
 - b) The naming of parishes and the style of new parishes;
 - c) The electoral arrangements for parishes (the ordinary year of election; council size; the number of councillors to be elected to the council, and parish wardings) and
 - d) Grouping parishes under a common parish council or de-grouping parishes.
6. The LGPIH Act devolved the power to take decisions relating to creating, merging or abolishing parishes, the naming of parishes, the electoral arrangements for parishes and grouping arrangements for parishes from the Secretary of State and the Electoral Commission to principal councils.
7. The purpose of a community governance review is to secure an arrangement which will bring about improved community engagement, better local democracy and will result in more effective and convenient delivery of local services.
8. With effect from February 2008, principal councils have had the responsibility for undertaking community governance reviews (formerly known as a parish reviews) and have been able to decide whether to give effect to recommendations made in those reviews.

9. The principal council must consult the local government electors for the area under review and any other person or body (including a local authority) who appears to have an interest in the review.
10. Councils are required to have regard to guidance issued by the Secretary of State and the Boundary Commission
11. Whilst the legislation and guidance relates to Parish and Town Council the proposal is to extend the consultation to seek feedback on the town's Community Council's which are supported by the Council via a small grant. This will enable the Council to assess the level and routes for community engagement at a grass routes level.

Criteria for undertaking a review

12. Section 93 of the Act requires principal councils to ensure that community governance within the area under review will be:
 - reflective of the identities and interests of the community in that area; and
 - effective and convenient
13. When considering the criteria identified in the Act, principal councils should take into account a number of influential factors, including:
 - the impact of community governance arrangements on community cohesion; and
 - the size, population and boundaries of a local community or parish.
14. In considering the criteria, the impact on community cohesion is linked specifically to the identities and interests of local communities. Size, population and boundaries are linked to both but perhaps more specifically to community governance being effective and convenient.

Review Requirements

15. There are a number of requirements relating to the conduct of the review which must be observed. These are:
 - Terms of Reference must be drawn up for the review. These must identify the focus for the review and the area under review;
 - Consultation must take place with local people, representative groups active in the area and any people/groups that could be reasonably expected to have an interest in the review;
 - The Council must take account of the representations received;
 - The review must be completed within 12 months of the Council publishing the Terms of Reference.

Consultation

16. To ensure that interested persons or groups have the opportunity to input and respond to the review the following actions will be undertaken:
 - Display notices at a number of council buildings
 - Information on the Council website
 - Article in Middlesbrough News
 - Members Briefings

- Letter to parish and community councils including information that they may use in order to publicise the review within their parishes (This information could then be publicised through their magazines/newsletters/intranet, notice boards or website)
- Letter to other known community groups within Middlesbrough (using the Council's stakeholder database)
- Letter to MPs representing constituencies within Middlesbrough and local constituency offices of registered political parties
- Social network sites
- Online Community Consultation meetings.

Timetable and Terms of Reference

17. The review is concluded when the Council publishes its recommendations and this must be within 12 months of the Council publishing the Terms of Reference. The proposed timetable is set out in Appendix A

What decision(s) are being asked for?

18. The Council is asked to:

- I. Agree that a Community Governance Review be undertaken across the whole of the Council's area under the terms of Chapter 3 of Part 4 of the Local Government and Public Involvement and Health (LGPIH) Act 2007;
- II. Approve the timetable for the review outlined in Appendix A;
- III. Council delegate to Corporate Affairs and Audit Committee, consideration and agreement of a Terms of Reference for the review and any consultation responses to the review with final recommendations referred back to Council for approval.

Why is this being recommended?

19. Local Government Boundary Commission for England recommend that a local authority conducts a full Community Governance Review every 10-15 years

Other potential decisions and why these have not been recommended

20. Not conducting a review may leave some parts of a local community disenfranchised from their neighbours and result in some areas not being represented at a grass roots level.

Impact(s) of recommended decision(s)

21. Conducting a review will allow the Council to meet its responsibilities in reviewing Parish Council, strengthen community and engagement and representation whilst promoting the Council's Public Engagement Policy.

Legal

22. Community Governance Reviews operate under the following legislative framework:

- Local Government & Public Involvement in Health Act 2007 (Section 81 of the Act requires the Council to publish its Terms of Reference);
- Guidance on community governance reviews, issued in accordance with Section 100 of the Local Government & Public Involvement in Health Act 2007 jointly by Department for Communities and Local Government and the Local Government Boundary Commission for England in March 2010;
- Local Government Act 1972 (as amended);
- Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI 2008/625); and
- Local Government Finance (New Parishes) Regulations 2008 (SI 2008 626).

23. The manner in which this framework applies to this review is explained in the text of the report.

Financial

24. The consultation costs are not expected to exceed £5000 and will need to be borne by the budget for Electoral Registration which may cause a small budgetary pressure.

Policy Framework

N/A

Equality and Diversity

25. There are no direct equalities implications that have been identified as relevant to this report. However, achieving a more even distribution of electoral representation in every parish will provide an opportunity for fairer representation.

Risk

26. Councils are expected to carry out community governance reviews every 10-15 years. There are no further scheduled elections in 2021/22 and therefore staff resources are available to complete the review by June 2022 with a view to implementing any changes from May 2023 elections.

27. The Council will be mindful of Government guidelines and policy and take this into consideration throughout the review

28. To mitigate against the potential for judicial review, the Council will ensure that all decisions are evidence based.

Actions to be taken to implement the decision(s)

29. A draft Terms of Reference will be developed and presented to Corporate Affairs and Audit Committee before the public consultation begins.

Appendices

[APPENDIX A - Community Governance Review – Timetable](#)

Background papers

Body	Report title	Date
Local Government Boundary Commission for England	Guidance on community governance reviews	March 2010

Contact: Sylvia Reynolds - Head of Democratic Services

Contact's email address. sylvia_reynolds@middlesbrough.gov.uk

APPENDIX A

Stage	Action	Timescale	Dates
Council	Agreement		28 July 2021
Commencement	Terms of reference published Stakeholders notified with clear definition of remit of review		30 September 2021
Preliminary Stage	Local briefings and meetings (members/parish councils)	2 Month	September & November 2021
Stage One	Initial submissions invited from stakeholders on future arrangements under terms of reference	2 Months	November & December 2021
Stage Two	Consideration of submissions received Draft recommendations prepared Draft recommendations to be considered by Corporate Affairs and Audit Committee	• 3 Months	January 2021 - February 2022
Stage 3	Draft recommendations published for consultation Stakeholders notified	Two Months	March 2022 – April 2022
Stage 4	Consideration of submissions received Final recommendations prepared Final recommendations published concluding the review Final recommendations considered by Council and decision made on arrangements with resolution to make a Reorganisation Order Reorganisation Order made	Three Months	May 2022 – July 2022
	Orders come into effect at next elections		May 2023

Given that there may still be restrictions on what activity can take place after 21 June 2021, it proposed to hold online consultation meetings as part of the Preliminary Stage with parish councils to outline the Council's proposals affecting their particular parish.

Report of:	Director of Legal and Governance Services and Monitoring Officer - Charlotte Benjamin
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Submitted to:	Council – 28 July 2021
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Subject	Update - Council Constitution
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Summary

Proposed decision(s)
To consider proposals to update the Constitution, included at Paragraph 23 of the report - as endorsed by the Constitution and Members Development Committee on 26 February 2021

Report for:	Key decision:	Confidential:	Can be called-in:
Decision	N/A	No	No

Contribution to delivery of the 2020-23 Strategic Plan		
People	Place	Business
Not applicable	Not applicable	Ensure decision making practices remain relevant and / or can improve openness and transparency.

Ward(s) affected
Not applicable

What is the purpose of this report?

1. The Council’s Constitution is subject to continual review together with any associated documents e.g. Scheme of Delegation, Procedure Rules and protocols to ensure that decisions taken by the Council are lawful and reflect changes in legislation and Council priorities.

Why does this report require a Member decision?

2. The Constitution is a live document, which from time to time requires adjustment to reflect how the Council operates. Occasionally amendments are needed to reflect changes in policy and legislation whilst others deal with inconsistencies and presentational issues that have no effect on the agreed procedural rules. Other

minor amendments are required to deal with the results of new legislation and do not require a change in Council processes.

3. A phased review of the Constitution is underway to ensure that the Constitution is fully up to date. Some topics have been prioritised for review and the committee will be asked to consider proposals before these are considered for approval by full Council.
4. The changes to the Constitution fall within three broad areas, which can be described as follows:-
 - a. Alterations made as a result of decisions of either the Council or the Executive.
 - b. Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes.
 - c. Alterations to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors.
5. Detailed below are the proposed amendments for consideration by the Council.

Proposed alterations to be made as a result of decisions of either the Council or the Executive.

Motions of No Confidence

6. Council recommended that the item in relation to motions of no confidence (20/10/2020) should be referred back to the committee for further consideration. The Constitution is currently silent on motions of no confidence it is therefore it is proposed to add a new section to the Constitution (see Appendix 1).

Proposed alterations to be made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes

7. There were no proposed amendments to be made under delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes

Proposed alterations to be made to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors.

8. The following ambiguity with regard to voting on appointments was clarified by the Monitoring Officer:

Voting on appointments at committees

9. Council recommended that the Constitution and Members' Development Committee consider the legal position as to whether Executive members could participate in voting at the Council AGM with regard to Scrutiny/Audit Committee appointments and that a report on the outcome be brought back to Full Council

10. Appointments of Chairs and places on committees are generally made at the Annual Meeting of the Council (see Council Procedure rules excerpt **Appendix 2**).
11. In order to clarify who can take part in voting on the above appointment 'Knowles on Local Authority Meetings - a manual of law and practice', identifies;

Elements of a lawful decision;

1.38 To be lawful a decision of a local authority, if taken by the **full council** or by a committee, must:

- comply with the cardinal principle of being reached by the required **majority of Councillors present and voting** at a properly constituted meeting;;
- be one that the council is empowered or obliged to take, otherwise it is *ultra vires*;
- not offend against Wednesbury reasonableness, which in itself has several facets to consider, including that of bias or predetermination.
- if taken under delegated power, it must furthermore come within the scope of that power.

A decision cannot ordinarily be impugned because of the lack of qualification of a councillor. Ordinarily, too, a decision cannot be challenged because of the motive of a councillor or councillors who voted in favour of the proposition or just because a councillor has not directed their mind in the meeting itself to the arguments for and against or to other relevant considerations.

1.39 There is a general principle governing the manner in which an authority shall reach a decision. This is that, save where other prescriptions apply in particular circumstances:

'... all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.'

1.40 This means that every decision that falls to be taken by a local authority (unless it is one that an officer or individual member, including an elected mayor, has been empowered to make) can lawfully be reached only by the full council at a properly constituted council meeting or by a committee or sub-committee acting under delegated powers, and then only upon the affirmative vote of a majority of the members present and actually voting.

Therefore, an authority of 100 members may properly be committed to a course of action at a council meeting at which no more than the prescribed quorum is present (say 25 council members, which represents the quorum in the case of a principal council of that membership), of whom only three trouble to put up their hand in favour when a vote is taken and two vote against: or –a more extreme example – if one member votes in favour and everyone else abstains.

12. Having contacted other Tees Valley local authorities, all of the authorities that were contacted advised that the appointments to Chairs and positions on Committees were determined by the whole of the membership of the Council.
13. The guidance contained in 'Knowles on Local Authority Meetings – a manual of law and practice' makes it clear that a decision made by Full Council, should be reached by the required majority of councillors present and voting at a properly constituted meeting.
14. The Local Government Act 1972, s.2B provides that the Mayor is to be treated as a member of the council when voting at meetings, and therefore the guidance above also applies to the elected Mayor.
15. However, the Mayor is not recognised as a Councillor for the allocation of Political Balance and therefore can only be allocated seats on committees as an ex officio member (a member of a body who holds the role as a result of their status or another position that they hold).
16. The guidance thereby indicates that the Executive can take part in voting on all Committee appointments including in respect of Scrutiny Chairs.

Motions

17. It is felt from an operational perspective that improvements could be made to some processes in relation to motions that may help Members' and Service Directors understand the possible impact of motions before submitting them and identify who will be responsible for ensuring actions can be tracked and monitored.
18. Propose that the time for submitting motions with notice to be extended to 9 clear working days. Motions will need to be submitted by 5pm prior to the 9th clear working day. This will allow time for discussions / consultation with the Monitoring Officer / Deputy Monitoring Officer / 151 Officer or Service Director where appropriate and allow time for alterations where required.
19. It is proposed that when submitting a Motion, a Motions Form (**Appendix 3**) be submitted to ensure that all the necessary information is included which will enable appropriate consideration by the Chair of the Council and the Monitoring Officer. The form will also identify who is responsible for any actions arising from the agreement of the Motion and will facilitate Motions to be tracked to ensure that any actions are carried out and within the required timescale.
20. Any amendments to ordinary Motions must be submitted 2 working days prior to the meeting to allow time for discussions/consultation with the Monitoring Officer / Deputy Monitoring Officer/ 151 officer or Service Director where appropriate, to ascertain if the amendment is lawful or valid. This will allow the Chair to read any proposed amendments out at the meeting, therefore providing members with clarity with regard to the amendment to the Motion and clarity on what they are voting on.
21. Any amendment must be relevant to the Motion and should not substantially alter the Motion in such a way as to negate the Motion or to introduce a new proposal.

Motions to amend the Council Budget

22. In terms of proposed amendments to the Council Budget, it was proposed that any amendment must be submitted in writing, at least 3 working days prior to the meeting to allow time for the Section 151 Officer to review the amendment to determine whether the proposal is lawful and to enable him to determine what effect the amendment would have on the budget that has been proposed.

What decision(s) are being asked for?

23. That the Council approve the following proposals to update the Constitution :
- I. Motions of No confidence (Appendix A) be added to the Constitution
 - II. Note that all Members of Council to vote on appointment of Committee Chairs and members
 - III. Change the timescale for submitting a Motion from 7 working days to 9 working days for Notice of Motions
 - IV. Agree the proposals to introduce the use a Notice of Motion form to gather additional information
 - V. Agree the proposal to submit amendments to ordinary motions, in writing, 2 working days before the Council meeting.
 - VI. Agree the proposal to submit amendments to the Council Budget, in writing, 3 working days before the Council meeting.

Other potential decisions and why these have not been recommended

24. Not applicable

Impact(s) of recommended decision(s)

Legal

25. No impact.

Financial

26. No impact.

Policy Framework

27. Not applicable. The report does not propose an amendment to the policy framework.

Equality and Diversity

28. Not applicable.

Risk

29. If the Council does not have adequate governance processes in place to ensure that it complies with all relevant legislation, it could result in a breach in governance

requirements leading to (depending on the seriousness of the breach) fines, reputational damage, government intervention alongside failure to deliver organisational priorities.

Actions to be taken to implement the decision(s)

30. Monitoring Officer to make any changes to the Constitution.

Background Papers

Knowles on Local Authority Meetings (8th Edition)
Council Minutes – 14 October 2020

MOTIONS OF NO CONFIDENCE

1. Motions of no confidence in a Chair of a committee /scrutiny panel may be moved in a committee meeting as an interim measure. However, the Council appoint Committee Chairs, therefore a confidence motion relating to a Chair of Committee must be approved by Full Council as a non-delegated item, with a recommendation that a new Chair be appointed by Council.
2. A confidence motion may only be brought following consultation with the Monitoring Officer / Deputy Monitoring Officer.

Raising a No Confidence Motion

Committee and Scrutiny Chairs

3. Any member of a committee, Overview and Scrutiny Board or any Scrutiny Panel shall be entitled to give notice to the Monitoring Officer or the Head of Democratic Services that they wish an item relevant to the Committee's function to be included on the agenda for the next available meeting (7 clear working days' notice prior to the appropriate committee). The request must contain detailed reason for the motion.
4. The Monitoring Officer will ensure it is included on the next available agenda as the first item for consideration. Where it is not feasible to give the required notice, then a Member of that Committee after consultation with the Monitoring Officer may move that an urgent agenda item is considered at the meeting. Under the law, only the Chair can admit urgent items of business - failure of the Chair to admit a confidence motion in respect of him/herself may be submitted as a Notice of Motion to Council.
5. For consideration of such a motion, the Chair shall cease to be Chair of the Committee for that item and shall be an Ordinary Member of the Committee. The Monitoring Officer, or their representative, will act as Chair of the Committee during consideration of the motion.
6. Where a Member wishes to bring a confidence motion against the Chair of a Committee of which they are **not a Member**, it should be brought as a notice of motion to the Council under the Council's Procedure Rules.
7. The motion, after debate, shall be carried if it is agreed by a simple majority of the **Members** present and voting. The Chair shall immediately stand down and the remainder of the meeting shall be chaired by the Vice-Chair or, in his/her absence, or if he/she was acting as the Chair and the subject of the vote, by a Member elected for that purpose by the meeting.

8. Following a successful vote of no confidence in the Chair, he/she shall not officiate at any subsequent meeting of the Committee prior to the next meeting of the Full Council.
9. If the Council does not confirm the vote by a simple majority of the Members present and voting, the Member remains as Chair of the Committee.
10. Only 1 vote of no confidence can be considered in any 12 month rolling period.

Mayor and Executive

11. A confidence motion against an Executive Member may be brought at Council under the Council's Procedure Rules but the Executive Member can only be removed by the elected Mayor
12. A confidence motion against the Elected Mayor may be brought at Council under the Council's Procedure Rules, however by law the Mayor remains in office until resignation, disqualification or the appointment of a successor, so the Mayor cannot be dismissed by Council by a vote of no confidence.
13. Only 1 vote of no confidence can be considered in any 12 month rolling period.

Chair of the Council

1. A confidence motion against the Chair of Council may be brought at Council under the Council's Procedure Rules, however under the Local Government Act 1972 the Chair/ Vice Chair remains in office until resignation, disqualification or the appointment of a successor, so the Chair cannot be removed from office by Council by a vote of no confidence.
2. Only 1 vote of no confidence can be considered in any 12 month rolling period.

No Confidence Motions at Council

3. Members must give notice to the Monitoring Officer or the Head of Democratic Services that they wish put a motion to Full Council (9 clear working days' notice prior to of the appropriate Council Meeting).
4. The Council shall consider whether to confirm the vote of no confidence. If by a simple majority of the **Members** present and voting, they decide to confirm the vote, the office of Chair of the relevant Committee shall be declared vacant and the Council shall elect a new Chair.

Procedure

Where motions of confidence are moved, the rules of debate will not strictly be applied and in accordance with the rules of natural justice, the defendant (Chair or Mayor, Executive Member) will have the right to speak last, though the mover will have the right to respond.

APPENDIX 2

CHAIRING

1. The Council will appoint chairs and vice-chairs of the Council and all committees and scrutiny panels at its Annual Meeting.
2. Where there is a vacancy for Chair, the Vice Chair will act as Chair until the council fills the vacancy *at the next general full council meeting*.
3. Written notice of the resignation of a Chair or Vice Chair will be effective on receipt by the Monitoring Officer.
4. In the absence of the Chair and Vice-chair at a meeting, the committee will appoint a chair for that meeting or part of that meeting, as appropriate. The person presiding at the meeting may exercise any power or duty of the Chair.
5. Chairs and (where required) Vice Chair of sub-committees of main committee/s will be appointed by the parent committee.
6. The Council may at any time remove a Chair or Vice Chair of a committee.
7. A joint meeting should appoint a member to chair the meeting?
8. No member of the Executive will chair any meeting of the Council, Overview and Scrutiny Board; a Scrutiny Panel or the Corporate Affairs and Audit Committee.

DATE MOTION SUBMITTED	
PROPOSER	
SECONDER	
DATE OF COUNCIL MEETING	
RESPONSIBLE EXECUTIVE MEMBER	
SUBJECT OF MOTION	
ACTION REQUIRED TO IMPLEMENT THE MOTION	
IS THERE ANY FINANCIAL/LLEGAL/SERVICE IMPACT (CHECK WITH MO/S151/SERVICE DIRECTOR BEFORE SUBMITTING THE MOTION)	
PERSON/PEOPLE RESPONSIBLE FOR ACTION	
DEADLINE DATE FOR ACTION	

Report of:	Charlotte Benjamin Director of Legal and Governance Services / Monitoring Officer
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Submitted to:	Council: 28 July 2021
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Subject:	<i>Revised Members Code of Conduct</i>
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Summary

Proposed decision(s)
That Council consider and approve the proposed revised edition of the Members Code of Conduct.

Report for:	Key decision:	Confidential:	Is the report urgent?
<i>Decision</i>	<i>N/A</i>	No	NO

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
		Good standards of behaviour underpin good governance

Ward(s) affected
<i>None</i>

What is the purpose of this report?

1. To approve the revised Members’ Code of Conduct which has been amended to reflect the recommendations on best practice resulting from the Local Government Ethical Standards Committee Review in relation to Standards in Public Life.

Why does this report require a Member decision?

2. Requirements to maintain high ethical standards for members, together with the requirement to adopt a code of conduct, was introduced by the Localism Act 2011. The Standards committee plays a key part in ensuring the code of conduct is applied and upheld and therefore are key consultees on any proposed revisions to the Members’ Code of Conduct.

Report Background

3. The Code applies when Members act in their role as a Member of the Authority
4. The most recent version of our Code was adopted by Council with effect from 1 December 2016.
5. The Committee on Standards in Public Life (the Committee) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles. The Committee undertook a review on Local Government Ethical Standards and produce a report in January 2019.
6. The purpose of the review was for the Committee to assure themselves that the current standards framework was conducive to promoting and maintaining the high standards expected by the public.
7. The Committee made 26 recommendations and identified 15 recommendations of best practice to improve ethical standards in local government. The recommendations included the suggestion for the Local Government Association (LGA) to create an updated Model Code of Conduct to enhance consistency and the quality of local authority codes.
8. As a result of the above recommendations Middlesbrough Council looked to review its own Code of Conduct to ensure any best practice recommendation could be included and a report was submitted to the Constitution and Member Development Committee in February 2020.
9. A model code has been developed by the LGA, and the above code has been updated to reflect that.
10. The Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.
11. Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
 - The introduction of sanctions
 - An appeals process through the Local Government Ombudsman
 - Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
 - Updates to the Local Government Transparency Code
 - Changes to the role and responsibilities of the Independent Person
 - That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

What decision(s) are being asked for?

12. That Council approve the revised edition of the Members' Code of Conduct.

Why is this being recommended?

13. The role of Members across all tiers of local government is a vital part of our country's system of democracy. It is important that as elected Members' can be held accountable and all adopt the behaviours and responsibilities associated with the role and understand that conduct as an individual Member can affect the reputation of all elected Members.

The Standards Committee considered and endorsed the revised Code of Conduct at the meeting held on 19 July 2021, with a recommendation that it be submitted to full Council for final approval.

14. The purpose of the revised Code of Conduct is to;

- Assist Members' in modelling their behaviours to those expected of them, and to set out the type of conduct that could lead to action being taken against them.
- Protect Members, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.
- Reflect the recommendations on best practice resulting from the Local Government Ethical Standards Committee Review in relation to Standards in Public Life.

15. The Constitution and Member Development Committee have also been consulted on the proposed revisions and proposed some minor amendments which have been incorporated into this version.

16. A copy of the proposed revised Members Code of Conduct is attached at Appendix A.

17. A copy of the Committee for Standards In Public Life recommendations on best practice is attached at Appendix B;

18. A copy of a Declaration of Interests Guidance chart for Members is attached at Annex 2 to the Code of Conduct.

Other potential decisions and why these have not been recommended

19. Following the development of this code, the LGA have also since compiled a new Model Code of Conduct. Comparisons were made to ensure that the revised code incorporates any recommendations in the LGA Model Code, however the proposed revised code contains more detailed examples of behaviours as suggested in the Committee for Standards in Public Life recommendations.

Impact(s) of recommended decision(s)

20. The code is intended to be applied to all elected members and co-opted Members of Middlesbrough Council and Parish Councillors for Nunthorpe Parish Council and Stainton and Thornton Parish Council.

Legal

21. Under section 27 of the Localism Act 2011 each local authority must adopt a code of conduct against which councillors' conduct may be assessed. This code, when viewed as a whole, should reflect the Seven Principles of Public Life. A local authority must also make appropriate provision for councillors to register pecuniary and non-pecuniary interests.

Policy Framework

22. The Members' Code of Conduct forms part of the Council's Constitution and therefore amendments may be made to the Constitution following Council approval.

Equality and Diversity

23. All groups are affected equally

Risk

24. Failure to have an adequate standards framework in place will not be conducive to promoting and maintaining the high standards expected by the public and therefore may lead to a loss of confidence in elected members and lead to reputational damage for the Council.

Actions to be taken to implement the decision(s)

25. If adopted, the new Members Code of Conduct will replace the previous version.

Appendices

Appendix A: Revised Members Code of Conduct

Appendix B: Committee for Standards in Public Life, recommendations on best practice

Background papers

Body	Report title	Date
Committee on Standards in Public Life	Local Government Ethical Standards - A Review by the Committee on Standards in Public Life	January 2019
Local Government Association	Model Code of Conduct	December 2020

Contact: Sylvia Reynolds

Contact's email address: sylvia_reynolds@middlesbrough.gov.uk

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MIDDLESBROUGH COUNCIL MEMBERS' CODE OF CONDUCT

Version	Author	Consulted	Approved By / Date	Published	Review
0.2	S Reynolds	Monitoring Officer Constitution and Member Development Committee 4/2/2020	4/2/20		
0.3	S Reynolds	Standards Committee			

APPENDIX A

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INTRODUCTION

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

The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

This Code is based on the Seven Principles of Public Life/Nolan Principles which apply to anyone who works as a public office-holder.

Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations

Application of the Code

This Code of Conduct (the Code) applies to every elected member and co-opted member¹ of Middlesbrough Council². As an Elected Member, it is your responsibility to make sure that you are familiar with, and that your actions comply with, its provisions.

This code should be read in conjunction with other relevant policies e.g. ICT Acceptable Use Policy, social media policy and the Member / Officer Protocol. Members' should be aware that a breach of any such policy /protocol may also be a breach of the Members Code of Conduct.

The Code of Conduct applies to you when you are acting or claiming or giving the impression that you are acting in your capacity as a member or representative of the Council, although you are expected to uphold high standards of conduct and show leadership at all times.

The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, including where you could be deemed to be representing the council or if there are potential implications for the Council's reputation.

The Code does not apply to the actions of the authority as a whole, nor to the conduct of its officers and employees. It also does not cover matters under the Localism Act 2011 where criminal sanctions apply.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. Elected Members hold public office under the law and must observe the rules of conduct stemming from the law, this Code, and the rules, standing orders and regulations of the Council. It is your personal responsibility to comply with these and review your register of interests regularly, at least annually, particularly when your circumstances change. You must not, at any time, advocate or encourage any action contrary to the Code.

A very clear line however, must be drawn between this Code's requirements of respect for

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others, including those with opposing views, and the freedom to disagree with the views and opinion of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other. Nothing within this Code seeks to stifle free speech.

¹ Co-opted member is a person who is not an elected Member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub- committee

² This means it applies when you are carrying out your official duties, for example when you are acting on, considering or discussing council business

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KEY PRINCIPLES OF THE CODE OF CONDUCT

Everyone in public office at all levels – ministers, civil servants, members, council officers – all who serve the public or deliver public services should uphold the seven principles of public life. This Code has been developed in line with these seven principles of public life, The following general principles³ upon which this Code of Conduct is based should be used for guidance and interpretation only. They define the standards that members should uphold and serve as a reminder of the purposes of the Code of Conduct. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member.

Duty - You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.

Selflessness - You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

Objectivity - In carrying out public business you must make decisions impartially, fairly and on merit, without bias or discrimination, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability - You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this. You have a duty to consider issues on their merits, taking account of the views of others, and you must ensure that the Council uses its resources prudently and in accordance with the law.

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

Honesty and integrity - You must be truthful and you must not place yourself in situations where your honesty and integrity may be questioned. You must not behave improperly and must on all occasions avoid the appearance of such behaviour. You must avoid placing yourself under any obligation to people or organisations that might try inappropriately to influence you in your work. You should not act or take decisions

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in order to gain financial or other material benefits for yourself, your family, or friends. You must declare and resolve any interests and relationships.

Leadership - You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence and be willing to challenge poor behaviour.

Respect - You must respect all other Elected Members and all Council employees and the role they play. Similarly, you must respect members of the public when performing duties as an Elected Member.

GENERAL PRINCIPLES

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

The rules of good conduct apply to you whenever you act in your official capacity. This includes whenever you conduct business of the Council or act, claim to act, or give the impression or reasonable perception that you are acting in your official capacity as representative of the Council, which includes when using social media.

You may also act as a representative of the Council on another body, for example where you have been appointed by the Council to an outside body. When acting for that other body, you must comply with the Middlesbrough Code of Conduct, unless it conflicts with lawful obligations of the other body.

1. You must treat others with Civility and respect

Civility means politeness and courtesy in behaviour, speech, and in the written word, and social media.

You should follow the principles of mutual respect in all your dealings and be prepared to accept that others may have equally strong views in good faith that differ from your own.

You should always treat colleagues with respect and not engage in any behaviour

towards other members or staff, which might reasonably be interpreted, as discriminatory, bullying or harassment.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate and does not in itself amount to bullying or failing to treat someone with respect.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or do anything that hinders the Council's fulfilment of its positive duties under equality laws. Such conduct may cause the Council to breach the law, and you may find yourself subject to complaint that you have breached the Code of Conduct.

It is not disrespectful to question political opinions or to have a different point of view to somebody. It is disrespectful however, to use offensive language or to accuse them of dishonesty, wrongdoing or incompetence without producing any specific evidence, thereby seeking to damage their reputation.

While of course it is legitimate for you to express concern about the way in which a service is run or policy is being implemented by officers, you should avoid undermining, or making detrimental remarks about, individual named officers at meetings, or in any public forum, including on social media. This would be damaging both to effective working relationships and to

the public respect for the Council. It is also unfair as in general, staff are unable to defend themselves against criticism in a public forum.

Examples of bad practice in this area include:

- Spreading malicious rumours, or insulting someone by word or behaviour.
- Copying correspondence that is critical about someone to others who do not need to know.
- Ridiculing or demeaning someone – picking on them or setting them up to fail.
- Exclusion or victimisation.
- Unfair treatment.
- Overbearing supervision or other misuse of power or position.
- Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected.
- Making threats or comments about job security without foundation.
- Reporting to professional bodies without foundation.
- Deliberately undermining a competent worker by overloading and constant criticism.
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.

Chairs of meetings are also expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the council, any social media provider or if necessary, the police

2. Do not bully, harass or intimidate another person

Bullying is offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Intimidation is another form of bullying. It is the act of frightening someone into doing something that they do not otherwise want to do. This usually involves threats that make the person who is subjected to intimidation feel threatened or afraid.

Bullying and intimidatory conduct can also involve preventing people from doing something, behaving in an abusive or threatening way, or making allegations about people in public, or in the company of any of their colleagues, through the press or social media. It may happen once or be

part of a pattern of behaviours, although minor isolated incidents are unlikely to be considered bullying.

The Equality Act 2010 defines harassment as 'unwanted conduct related behaviour which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

3. Do not compromise the impartiality of anyone who works for, or on behalf of, the Council

You should not approach or pressure anyone who works for, or on behalf of, the Council to carry out his or her duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have

written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Do not disclose confidential/exempt information

There will be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which

case you must observe such requirements for confidentiality.

Legislation also gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out your Council duties. Such information is, however, for your use as an Elected Member and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

a) 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:

i) you have the consent of the person authorised to give it;

ii) you are required by law to do so;

iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice, provided that the third party agrees not to disclose the information to any other person; or

iv) the disclosure is: 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.

Personal data is confidential and is protected by the *General Data Protection Regulations* (GDPR). Never share information with family or friends or allow access to personal data

disclosed to you in your role as an Elected Member.

When conducting Council business you must only use the email account provided by the Council.

Personal email addresses may be used for your personal dealings or communicating directly with

constituents. In these circumstances elected

members are data controllers under GDPR and are responsible for the personal data that they collect, store, use and delete

5. Do not prevent anyone getting information that they are entitled to by law

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act* or personal data requests under *the General Data Protection Regulations*. Further information can be found in the *Members' Handbook*.

6. Do not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

7. Do not misuse Council resources

You should never use the Council's resources of facilities for your own private or business purposes. It is also not appropriate to use, or authorise others to use, the Council's facilities or resources (including IT and staff resources) for political purposes, party political purposes, election campaigning, group flyers etc. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act (1986)* or similar Act.

8. Conduct at Meetings

You must respect the Chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, or represent, the Council. You must comply with the Council procedure rules and comply with any rulings from the Chair in the conduct of the business of these meetings.

9. Training

You must attend mandatory training provided by the Council and receive, attend and consider updates when required.

Failure to attend may result in you not being able to participate in some decision making meetings or access personal information.(subject to consultation with the Monitoring Officer).

10. Do not bring your role or local authority into disrepute.

You are trusted to make decisions on

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

11. Communications

You must be clear when communicating with the media or speaking in public, and particularly if you are using social media, that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.

Since the judgment of whether you are perceived to be acting as a Elected Member will be taken by someone else, it is safest to assume that any online activity can be linked to your official role.

Members should also monitor their social media sites and remove any inappropriate posts/comments and avoid any actions that may give the impression that they endorse those comments.

12. Do have regard to advice from the Monitoring Officer or S151 Chief Finance Officer

If you seek advice, or advice is offered to

you, for example, on whether or not you should register an interest, you should have regard to this advice before you make your mind up.

You must also give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by the Council. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Do have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties. (2) Do give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

(3) Do consult with the Monitoring Officer where there is doubt about the authority's powers to act; or whether the action proposed lies within the policy framework of the authority; or where the legal consequences of action or failure to act by the authority might have important repercussions.

(4) Do consult with the Chief Finance Officer where there is doubt about the authority's ability to fund an action; or whether the action proposed lies within the budget framework of the authority; or where the financial consequences of action or failure to act by the authority might have important repercussions. Elected Members are required to comply

with any formal Standards investigation and must not submit trivial or malicious allegations against other Elected Members

Where you disagree with officer recommendations in making a decision, you will need to take particular care in giving clear reasons for the decision.

INTERESTS

You need to register your interests so that the public, council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You have an obligation to declare an interest in a meeting whenever an item of business is to be discussed, where you may have a relevant interest,

13. General Principles

The key principles of the Code, especially those which specify integrity, honesty and openness are given further practical effect by the requirement for you to declare interests at all

meetings that you attend and that your attendance, even as an observer, does not give rise to any suggestion that your presence could influence the outcome of the meeting. The rules which require registration of interests, along with the rules

on declaration of interest, are intended to produce transparency in regard to interests which might influence, or be thought to influence, your actions as a Elected Member.

14. Mandatory Registration of Disclosable Pecuniary Interests

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property). They are called "Disclosable Pecuniary Interests" (DPIs)

Regulations made by the Secretary of State describe the detail and timescale for registering DPIs.

You have a DPI if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see Annex 1 attached).

You must, within 28 days of taking office, notify the Monitoring Officer of any DPI where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

You must also, within 28 days of becoming aware of any new DPI, or change thereto, notify the Monitoring Officer of such new or changed interest.

It is your personal responsibility to comply with these regulations, and you should review regularly and at least once a year your personal circumstances to ensure that your registration of interests is up to date.

It is a criminal offence if, without a reasonable excuse, you fail to tell the Monitoring Officer about your DPIs.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of the Council where that business involves a DPI.

16. Gifts and Hospitality

You must not accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.

Registering with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

You must never ask for gifts or hospitality.

You are personally responsible for all decisions connected with the acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in the Council and in local

government. As a general guide, it is usually appropriate to refuse offers except:

- a) isolated gifts of a trivial character, the value of which must not exceed £25· normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- b) civic gifts received on behalf of the Council.

The receipt of these gifts must be registered with the Council within 28 days. This includes a requirement to disclose the name of the person who is believed to be the source of the gift or hospitality.

You must not accept any offer of a gift or hospitality from any individual or organisation who is an applicant awaiting a decision from the Council or who is seeking to do business or to continue to do business with the Council. If you are making a visit to inspect equipment, vehicles, land or property that the Council is intending to purchase, then as a general rule you should ensure that the Council pays for the cost of these visits.

You must only accept offers to attend social or sporting events where these are clearly part of the life of the community or where the Council would be expected to be represented.

You must not accept repeated hospitality or repeated gifts from the same source.

If the Council seeks sponsorship for some of its activities or events, you must ensure that your involvement with the sponsors is limited to the event in question and does not damage public confidence in the

relationship between the Council and the sponsors.

DECLARATIONS OF INTERESTS

It is your responsibility to make decisions about whether you have to declare an interest or make a judgement as to whether a declared interest prevents you from taking part in any discussions or voting. You are in the best position to assess your personal circumstances and to judge how these circumstances affect your role as a Elected Member in regard to a particular matter. You can, of course, seek advice from the Monitoring Officer. In making decisions for which you are personally responsible you are advised to err on the side of caution.

You may feel able to state truthfully that an interest would not influence your role as an Elected Member in discussion or decision-making. You must, however, always comply with the *objective test* ("the objective test") which is *whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a Elected Member.*

You must apply these principles no less scrupulously in your dealings with Council officers, at meetings with other Elected Members, including party group meetings, meetings of Joint Boards and Joint Committees and any other meeting, formal or informal, where you are representing the Council.

23. Declaration of a Disclosable Pecuniary Interests at a meeting of the Council

Your obligation to disclose a DPI to a meeting applies when you are aware of or ought to be aware of the existence of the DPI.

If you are present in any capacity (and this includes a private capacity) at a meeting of the Council, its executive, or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the Council, and you have a DPI relating to any business that is or will be considered at the meeting, you must declare that interest and you must not participate in:

- any discussion of the business at the meeting, or if you become aware of your disclosable DPI during the meeting participate further in any discussion of the business,
- or any vote or further vote taken on the matter at the meeting.

If the interest is not registered, you must still disclose the interest to the meeting. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

These prohibitions apply to any form of participation including speaking (or even observing the meeting) as a member of the public. You must leave the room. You cannot remain in the public gallery even if

only to observe any discussion or vote on the matter.

In certain circumstances you can request from the Monitoring Officer a dispensation from these prohibitions.

17. Dispensations which do not amount to DPIs

You do not have a DPI in the following circumstances:

1. Setting of Council Tax or precept or local arrangements for council tax support;
2. Housing: where you (or your spouse or partner) hold a tenancy or lease with the Council as long as the matter does not relate to your particular tenancy or lease;
3. Housing Benefit: where you (or your spouse or partner) directly receive housing benefit in relation to your own circumstances; or
4. An allowance, travelling expense, payment or indemnity for Elected Members.

18. Declaration of "Other" Interests

Sometimes you may have "other" interests in a matter if that matter affects the well-being of you, members of your family, or people with whom you have a close association, more than it would affect most people in the ward affected by the decision, or in the Council's area.

An "other" interest can affect you, your family or close personal associates

positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, a personal interest may need to be declared in both situations.

Your obligation to disclose an "other" interest to a meeting only applies when you are aware of or ought to be aware of the existence of the personal interest. Providing that the "other" interest does not amount to a "prejudicial" interest you can remain in the room, participate in any discussion and vote on the business at the meeting,

19. What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a "prejudicial" interest.

The mere existence of local knowledge, or connections within the local community however, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

20. What you should do if you have a "prejudicial" interest

If you have a "prejudicial" interest in a matter being discussed at a meeting, even if you are only attending to observe the meeting from the public gallery, you must declare that you have a prejudicial interest and the

nature of that interest as soon as that interest becomes apparent to you and you must leave the room immediately. You cannot stay in the room or the public gallery.

This Code of Conduct however, aims in certain circumstances to still provide you with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you will be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. You may not however, take part in the discussion.

You must immediately leave after you have made your representations, given evidence or answered questions, and before any debate starts.

If the meeting decides that you should finish speaking, despite your intention to say more, you must comply with the meeting's decision. Although members of the public may be allowed to observe the discussion and vote on the matter, you are not allowed to do so and must leave the room immediately. Failure to do so may be viewed as an attempt to improperly influence the meeting.

21. Bias/Predetermination

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not

required under the Code of Conduct but you still need to make clear that you are not biased or predetermined going into the decision making process.

Even though you may have been scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact.

You are entitled to have a predisposition one way or another as long as you have not pre-determined the outcome. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take. You are able to express an opinion providing that you can show that you have come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

However, there is still a need for anyone proposing to participate in decisions to examine their position with scrupulous care. This should be in the light of how proposed involvement is likely to be seen by critical external observers ("the objective test").

22. Dual-Hatted Members

Membership of another public body gives rise to a personal interest where you are involved in discussions or decisions relating to that other public body.

You should be able however, to regard most interests arising out of membership of another public authority as being personal non-prejudicial interests, even

where there are financial implications.

Examples of the sort of situation where the interest may become prejudicial, and will therefore rule you out of participation in any discussions and decision-making, are:

- a) Consideration of a licensing or planning application submitted by the other authority of which you are a member;
- b) A discussion or decision where two public authorities are in dispute and where litigation is threatened or has been commenced;
- c) Where the financial implications are so significant that one authority would have to reconsider its budget.

OTHER MATTERS

The following do not in themselves comprise part of the Code of Conduct. However, you should be aware that a failure to act in accordance with the advice as set out below will be taken into account in any allegation that there has been a breach of the Code of Conduct.

23. Training

You must attend mandatory training provided by the Council and receive, attend and consider updates when required. Failure to attend may result in you not being able to participate in some decision making meetings or access personal information. (subject to consultation with the Monitoring Officer).

24. Remuneration, Allowances and Expenses

You must comply with the rules for the payment to Elected Members of remuneration, allowances and expenses as set out in the Members' Scheme of Allowances.

25. Appointments to Partner Organisations

You may be appointed or nominated by the Council as a member of another body or organisation. If so, you will be bound by the rules of conduct of these organisations and your responsibility for any actions taken by you as a member of such an organisation will be to the organisation in question. You must also continue to observe the rules of this Code in carrying out the duties of that body.

If you become a director of a company as a nominee of the Council you will assume personal responsibilities under the Companies Acts. It is possible that a conflict of interest may arise for you between the company and the Council. In such cases it is your responsibility to take advice on your responsibilities to the Council and to the company. This will include questions of declarations of interest. The same applies if you assume other responsibilities such as becoming a director of a charitable trust.

26. Dealings with the Council

You will inevitably have dealings on a personal level with the Council of which you are a member - for example as a Council taxpayer, tenant, or recipient of a Council service or applicant for a licence or consent granted by the Council. You must not seek preferential treatment for yourself, your family, friends, colleagues or employees

because of your position as an Elected Member or as a member of a body to which you are appointed by the Council and you must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

27. Responsibilities to the Council as a Member of the Public

The law makes specific provision that if a Elected Member is in two months arrears with payment of Council tax that Elected Member may not participate in certain decisions concerning Council tax issues.

If you owe a debt to the Council, you must put in place at the earliest opportunity arrangements for repayment. You must avoid being in a situation which might lead the public to believe that preferential treatment is being sought. You must not participate in any decision which may create suspicion of a conflict of interest.

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 and it is either the interest of yourself; or your partner (which means spouse or civil partner; a person with whom you are living as husband or wife; or a person with whom you are living as if you are civil partners) within the following descriptions:

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

Subject	Prescribed description
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 Middlesbrough Council - <ul style="list-style-type: none"> • under which goods or services are to be provided or works are to be executed; and • which has not been fully discharged.
Land & Property	Any beneficial interest in land or property which is within the area of Middlesbrough

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	Council. Including rented accommodation.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Middlesbrough Council for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) - <ul style="list-style-type: none"> • the landlord is Middlesbrough Council; and the tenant is a body in which the relevant person has a beneficial interest.

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Securities	Any beneficial interest in securities of a body where - <ul style="list-style-type: none">• that body (to M's knowledge) has a place of business or land in the area of Middlesbrough Council; andeither -• the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or• 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.
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These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

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

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

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

"M" means a member of Middlesbrough

Council; "member" includes a co-opted

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

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Act 2000 and other securities of any description, other than money deposited with a building society.

The following guidance notes are intended to assist members in determining the nature of their interests at meetings. The following information should not be considered as a replacement for knowledge of the Code of Conduct, which can be found on page 132 of the Council's Constitution.

DISCLOSABLE PECUNIARY INTERESTS

These are interests that directly affect the financial position of members or their partner or spouse.

A members' interest may be a disclosable pecuniary interest if a decision is likely to affect the employment, employers, businesses, shares, land or property owned or rented, or an ongoing contract of a member or their partner or spouse.

Disclosable pecuniary interests must be declared. Members with disclosable pecuniary interests must withdraw from the meeting and leave the room during the relevant item. Members must not take part in any discussion or vote, or attempt to influence the decision.

If the interest is not already declared in the register of interests, members should notify member services so that it can be amended accordingly.

In certain circumstances members may receive a dispensation for their disclosable pecuniary interests. Please contact member services for further information.

OTHER PECUNIARY INTERESTS

These are interests that indirectly affect the financial position of members or their partner or spouse.

A members' interest may be a pecuniary interest if a decision is likely to affect any employer or body that has appointed the member or their partner/spouse, or any contract between the Council and the member or the member's business that has ended in the last 12 months.

An interest may also be a pecuniary interest if it could be reasonably considered to financially benefit the member or their partner/spouse more so than the majority of council tax payers or inhabitants of the ward affected by their decision.

Pecuniary interests must be declared. It is at the members' discretion if they should withdraw from the meeting or not. If it is felt that a member of the public with knowledge of the relevant facts would consider the interest so significant that it would prejudice the member's judgement, then the member should leave the room and not take part in any discussion or vote. Otherwise members may remain in the meeting, debate and vote as usual.

NON-PECUNIARY INTERESTS

These are interests that are unlikely to significantly affect the financial position of members.

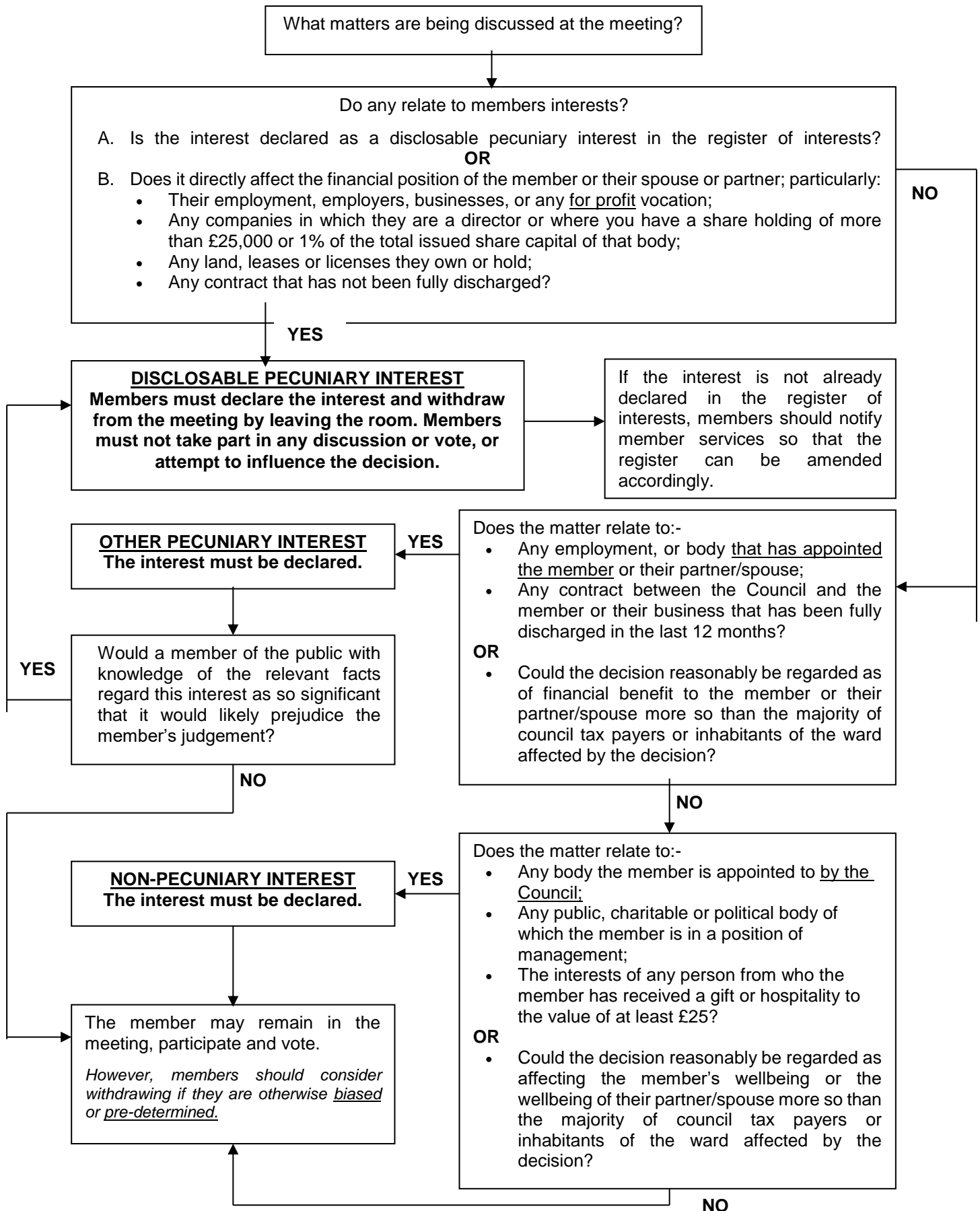
A members' interest may be a non-pecuniary interest if it relates to a body that the member is appointed to by the Council; a public, charitable or political body of which the member is in a position of management; or the interests of a person the member has received a gift from.

An interest may also be non-pecuniary if it could reasonably be considered to affect the wellbeing of the member or their partner/spouse more so than the majority of other council tax payers or inhabitants of the ward affected by the decision.

Non-pecuniary interests must be declared. However, members may remain in the meeting, debate and vote as usual, *so long as the member is not considered to be biased or have a pre-determined view*. **Failure to declare an interest may be a breach of the Members Code of Conduct.**

NOTE ON BIAS AND PRE-DETERMINATION: Separate to the above considerations, you should consider withdrawing from a meeting if a member of the public is likely to perceive bias or pre-determination. For example, if you are appointed by the Council as a trustee of a charity, and you are present at a meeting where that charity will have an application for a grant or planning permission determined – then a member of the public may reasonably consider you to be biased. In such instances, you may wish to consider leaving the meeting. Similarly, if you have publicly stated that you will vote a particular way, and there is *nothing* that will change your mind, then you are pre-determined and should withdraw from the meeting. This is *not* the same as having a pre-disposition, i.e. publicly stating your opinion, but also your willingness to consider both sides of an argument. Members are permitted to be pre-disposed, but not pre-determined.

DECLARATION OF INTERESTS – GUIDANCE CHART FOR ELECTED MEMBERS



The Monitoring Officer can offer advice to Members on whether to declare an interest; but the final decision about whether to declare an interest or whether it is right to participate in discussion or voting remains one for elected members. Declarations of Interest must be declared within 28 days of becoming aware of the interest

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