

## CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

<b>Date:</b> Monday 20th February, 2023 <b>Time:</b> 9.30 am <b>Venue:</b> Mandela Room
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### AGENDA

1. Welcome and Evacuation Procedure
2. Apologies for Absence
3. Declarations of Interest
4. Minutes Constitution and Members' Development Committee  
- 15 June 2022 3 - 6
5. Middlesbrough Constitution Progress Update 7 - 240

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Date Not Specified

### MEMBERSHIP

Councillors J Hobson (Chair), A Bell (Vice-Chair), A Hellaoui, D Rooney, M Saunders, M Storey, T Higgins, C Hobson, L Mason, M Smiles and Z Uddin

### Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Joanne McNally, (01642) 728329, [joanne\\_mcnally@middlesbrough.gov.uk](mailto:joanne_mcnally@middlesbrough.gov.uk)

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## CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

A meeting of the Constitution and Members' Development Committee was held on Wednesday 15 June 2022.

**PRESENT:** Councillors J Hobson (Chair), S Dean, C Hobson, L Mason, M Smiles, M Storey and S Walker

**OFFICERS:** C Benjamin, J McNally and S Reynolds

**APOLOGIES FOR ABSENCE:** Councillors A Bell, A Hellaoui, T Higgins, D Rooney, M Saunders and Z Uddin

### 22/1 DECLARATIONS OF INTEREST

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

### 22/2 MINUTES CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE - 13 MAY 2022

The minutes of the Constitution and Members' Development Committee held on 13 May 2022 were approved as an accurate record.

### 22/3 UPDATE ON CONSTITUTION REPORT TO COUNCIL

The Chair explained to the Committee that at the last meeting of full Council on 22 May 2022 he received a number of requests from Elected Members and the Executive Member for Finance and Governance to defer the report on the update of the Constitution to a future meeting.

The Executive Member for Finance and Governance was in attendance and explained that concerns were raised regarding the Monitoring Officer being able to make changes to the Constitution without member's approval. The Head of Democratic Services explained that there was an administrative error in the report submitted to full Council and that it was already in the Constitution that the Monitoring Officer could make minor changes. It was felt that any future changes should be agreed in conjunction with the Chair of the Council and the Executive Member for Finance and Governance.

The Chair suggested to the group that it would be beneficial to hold Constitution and Members' Development Committee meetings closer to full Council meetings to ensure that reports were up to date. The Head of Democratic Services suggested that the committee meetings should be held quarterly and that a bi-monthly working group be established to work on the parts of the Constitution that needed reviewing. It was agreed that an email be sent to all members of the Constitution and Members' Development Committee inviting them to be part of the working group.

Agreed as follows:

- Future changes to the Constitution by the Monitoring Officer to be made in conjunction with the Chair of the Council and the Executive Member for Finance and Governance
- Email to all members of the Committee inviting them to be part of the Constitution working group.

### 22/4 MEETING FORMAT - VIRTUAL/FACE TO FACE MEETINGS

The Head of Democratic Services asked the committee to consider whether some meetings should continue virtually or if all meetings should return to face to face now that all of the Covid restrictions had been lifted.

The committee were advised that all decision making meetings had to be held in person however non decision making meetings such as scrutiny investigation meetings and Corporate Parenting Board for example were not bound by legislation and could still be held virtually. Members were also advised that hybrid meetings were being considered where people from outside of the local authority could join meetings virtually. The Committee heard that some demo's had been undertaken of hybrid meetings and they had worked well. Costings for hybrid meeting equipment had been obtained as part of the project to update the sound system in the Council Chamber and would include providing the equipment to be able to hold hybrid meetings in both the Council Chamber and the Mandela Room. It was advised that the budget for this had been secured from the ICT Capital budget prior to Covid.

Members were in agreement that decision making meetings should be held in person and felt that it was important for committees such as Overview and Scrutiny Board and Audit meetings to be held in person. Concerns were also raised regarding technology issues such as loss of connection, loss of relationship building and also the impact on town centre businesses if meetings continued to be held virtually.

Following discussions members agreed that it should be down to individual non-decision making committees to determine whether their meetings should be held virtually or face to face and that a report should be taken to full Council to approve this.

Agreed as follows:

- That a report be submitted to full Council to seek permission for committee's to hold virtual meetings if agreed by the full committee

22/5

#### **PAPER-LITE MEETINGS**

The Head of Democratic Services presented the results of the Paper-lite and Remote Meeting survey that Elected Members had completed. Members were asked to consider submitting a report to full Council proposing a trial of paper-lite meetings and to encourage all members to use technology.

Members expressed some concerns and agreed that it was preferred to receive some specific committee documents such as reports to Overview and Scrutiny Board and Audit in paper format.

The Head of Democratic Services advised members that paper copies would still be available for members that requested them but all members would be encouraged to use the Modern.gov app to access papers with support and training provided by Democratic Services if needed.

Agreed as follows:

- A report will be submitted to full Council proposing a 4 month trial of paper-lite meetings

22/6

#### **UPDATE TO OFFICER EMPLOYMENT PROCEDURE RULES**

The Committee were asked to agree the following change to the Officer Employment Procedure Rules. The committee were advised that provision was already included under the Chief Officer Appointment Committee Terms of Reference but needed to be replicated in the Officer Employment Procedure Rules. The changes to the Officer Employment Procedure Rules were outlined in bold.

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

- (a) The appointment of Executive/Strategic/Assistant Directors, the Monitoring Officer, and the Chief Finance Officer will be made by the committee referred to in Rule 3 above, **unless the appointment is on an interim basis (6**

months or less).

- (b) **Interim appointments of Directors, for 6 months or less are delegated to the Head of Paid Service. Longer and permanent appointments to be reserved to the Chief Officer Appointments Committee.**
- (c) An offer of employment to these posts shall only be made where no well-founded objection has been received from any member of the Executive.

Agreed as follows:

- That the amendment to the Officer Employment Procedure Rules be made approved

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### **Middlesbrough Borough Council Constitution Review Progress Update to the Constitution and Member Development Committee**

CIPFA has been asked to review and update the Council's Constitution as part of the Council's Governance Improvement journey. CIPFA's appointment, and the scope of this work, was approved by the Monitoring Officer and the Constitution Task and Finish Working Group, which is one of the sub-groups to which the Governance Improvement Board has delegated the delivery of Governance Improvement actions.

CIPFA is not providing legal advice in relation to the Constitution but is providing a "common sense" review to develop a more accessible, simpler, consistent document.

This note covers the following:

1. the approach taken to the review of the Constitution;
2. the main changes that have been made;
3. the scope of the review; and
4. progress to date and next steps.

#### Approach taken to the review of the Constitution

Having looked at several examples of local authority Constitutions, the Constitution Working Group, whose membership was agreed at Full Council in November 2022, agreed that Denbighshire County Council provided a good template on which to base the new Middlesbrough Constitution. This "model" has been used as a guide when redrafting the Constitution. You can find the Denbighshire Constitution [here](#).

The Members of the Constitution Working Group are:

- Cllr Barrie Cooper
- Cllr Julia Rostron
- Cllr John Hobson
- Cllr Denise Rooney
- Erik Scollay
- Andrew Perriman
- Ann-Marie Wilson
- Sylvia Reynolds
- Judith Hedgley
- Susan Lightwing
- Gemma Cooper

At the request of the Monitoring Officer, the Constitution takes a "Q&A" format to make it easier to understand and navigate.

The general principle applied to updating the Constitution has been to simplify it where possible. This means, for example, that instances of over-explanation, or attempting to cover every possible scenario, have been removed. In most instances, references to legislation have also been removed from the text (although they are currently footnoted so that this information is not lost). A list of defined terms has been introduced to provide consistency. The aim is to create a Constitution that is accessible to Members, Officers and members of the public.

Part of the review has been to ensure that the Constitution does not contradict itself, and that the rules it contains make sense. To this end, CIPFA has worked closely with the Monitoring

Officer and Interim Head of Strategy, Information and Governance to work through certain provisions. This process is ongoing.

### Main changes to the Constitution

As mentioned above, the aim of the review has been to simplify the Constitution and changes have been made to achieve that aim. There has not been a significant number of substantive changes. Those that have been made have either been to make things clearer or to make a necessary update. Any substantive changes have been, or will be, discussed with the Monitoring Officer and the Interim Head of Strategy, Information and Governance and articulated to this committee and full Council in supporting documentation for transparency. Changes made to date have also been recorded in a table of amendments, which has been shared with the Committee.

The most significant changes have been to the structure of the Constitution (and this is why it looks quite different to the current version). In particular, the Procedure Rules have been moved to sit with the relevant section of the Constitution. For example, the Council Procedure Rules sit in section 4 (Full Council) of the Constitution and the Executive Procedure Rules sit in section 6 (The Mayor and the Executive). This is to make it easier to follow the Constitution as all the relevant rules now sit together.

### Scope of the review

There are certain sections of the Constitution that are outside the scope of CIPFA's review:

1. The Members' Code of Conduct – this was reviewed recently by the Council and a new version was accepted. However, wording to cover the Council's Values and their applicability to Members will be added as part of this review. This change will be sent to the Constitution Working Group for sign-off.
2. The Standards Procedure Rules – again, these were reviewed recently by the Council and a new version was accepted. CIPFA has made minor changes in order to incorporate these Procedure Rules into the Constitution (e.g., defined terms, numbering, position within the document). A revised version of the Rules will be circulated to the Constitution Working Group for sign-off.
3. The Protocol on Member / Officer Relations – this has been reviewed by the Roles and Responsibilities Task and Finish Working Group as part of the Governance Improvement action plan. CIPFA has made similar changes to those made to the Standards Procedure Rules to ensure consistency with the rest of the Constitution. A revised version will be circulated to the Working Group for sign-off.

A light touch has been taken to other codes and protocols e.g., Gifts and Hospitality, Filming of Council Meetings and to the Appendices.

### Progress to date and next steps

Task	Expected completion date
Committee meeting to discuss Constitution and approve draft (in principle)	20 February
CIPFA to finish review of Constitution and provide final draft	End of February



Constitution to go to Full Council for approval	TBC

CIPFA welcomes input from the Committee on the drafting of the Constitution. A revised version of the Constitution, and the table setting out substantive changes, will be circulated with the papers for the 20 February meeting. If Committee members have comments or queries about specific sections of the Constitution, please could they email them to [madeleine.humphrey@cipfa.org](mailto:madeleine.humphrey@cipfa.org).

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**Constitution Amendments – where have provisions been moved to?**

<b>Current Constitution</b>	<b>New Constitution</b>	<b>Notes</b>	<b>Status</b>
	Footnotes throughout Constitution	To insert statutory provisions in footnotes	IN PROGRESS
Explanation and Summary	Section 1 – Introduction	Simplified and shortened.	COMPLETE
Article 1 – The Constitution	Section 2 – Interpreting the Constitution	Structure and wording have been simplified to make provisions clearer.  New definitions section introduced for clarity throughout the Constitution.	COMPLETE except for definitions to be finalised in section 2.2
Article 2 – Members of the Council	Section 5 – Councillors Section 6 – The Mayor and the Executive	Mayor-related provisions moved to Section 6	COMPLETE
Article 3 – Citizens and the Council	Section 3 – Citizens and the Council		COMPLETE
Article 4 – The Full Council	Section 4 – Full Council		COMPLETE
Article 5 – Chairing the Council	Section 4 – Full Council	Incorporated into Full Council section	COMPLETE
Article 6 – Overview and Scrutiny Committees	Section 7 – Overview and Scrutiny	Amended to track Denbighshire, including a new introduction to explain scrutiny  NOTE: may be comments from GI working group on scrutiny function that need to be incorporated	COMPLETE (with a few outstanding questions)
Article 7 – The Executive	Section 6 – The Mayor and the Executive	All provisions relating to the Mayor and the Executive are in this section (some Mayor provisions previously sat in Councillor section)	COMPLETE

Article 8 – Policy and Regulatory and other Committees	Section 9 – Corporate Affairs and Audit		COMPLETE (with a few outstanding questions)
Article 9 – The Standards Committee	Section 8 – Standards		COMPLETE (with a few outstanding questions)
Article 10 – Joint Arrangements	Section 10 – Joint Arrangements		COMPLETE
Article 11 – Officers	Section 11 – Officers		COMPLETE
Article 12 – Decision Making	Section 13 – Decision-Making		COMPLETE (with a few outstanding questions)
Article 13 – Finance, Contracts and Legal Matters	Section 12 – Finance, Contracts and Legal Matters		IN PROGRESS – to check duplication with Access to Information Procedure Rules
Article 14 – Review and Revision of the Constitution	Section 2 – Interpreting the Constitution	Included in section 1 for ease of reference	COMPLETE
Article 15 – Suspension, Interpretation and Publication of the Constitution	Section 2 – Interpreting the Constitution	Included in section 1 for ease of reference	COMPLETE
Article 16 – Other Committees of the Council	Section 9 – Corporate Affairs and Audit	Article 16 seemed to relate only to Corporate Affairs and Audit Committee so the title of this section has been amended accordingly	COMPLETE (with a few outstanding questions)
Article 17 – Financial and Contract Procedure Rules (Standing Orders)	Section 14 – Financial and Contract Procedure Rules (Standing Orders)		COMPLETE

Article 18 – Scheme of Delegation	Section 15 – Scheme of Delegation		COMPLETE
Schedule 1 – Description of the Executive	Section 6 – The Mayor and the Executive		COMPLETE
Schedule 2 – Executive Portfolios	Section 6 – The Mayor and the Executive	Set by the Mayor	NOT IN SCOPE
Council Procedure Rules	Section 4 – Full Council	Follow on from Council provisions so all information is in one place.  The rules have been restructured and simplified to make them more accessible.	COMPLETE (with a few outstanding questions)
Access to Information Procedure Rules	Section 16 – Access to Information Procedure Rules	Not added to Section 3 – Citizens and the Council due to length and relative complexity.  This section will be hyperlinked and cross-referenced in Section 3.	COMPLETE (with a few outstanding questions)
Budget and Policy Framework Procedure Rules	Section 17 – Budget and Policy Framework Procedure Rules	Will be cross-referenced and hyperlinked as required	COMPLETE (with a few outstanding questions)
Executive Procedure Rules	Section 6 – The Mayor and the Executive	Follow on from Executive provisions so all information is in one place.	COMPLETE (with a few outstanding questions)
Overview and Scrutiny Procedure Rules	Section 7 – Overview and Scrutiny	Follow on from OSB provisions so all information is in one place.	COMPLETE (with a few outstanding questions and any suggestions to incorporate from GI working group)
Officer Employment Procedure Rules	Section 11 – Officers	Follow on from Officer provisions so all information is in one place.	COMPLETE (with a few outstanding questions)

Member's Allowances Scheme	Section 20 – Members' Scheme of Allowance	<p>Regulations require that the Scheme of Allowance are set at the start of each year, therefore, the 2022/23 Scheme will apply until new ones are adopted for 2023/24.</p> <p>In the light of this, the Scheme have just been copied across to the new Constitution.</p> <p>The numbering has been conformed to the format of the updated draft Constitution.</p> <p>The Scheme for next year will need to use defined terms from the updated Constitution.</p>	COMPLETE – no drafting changes made (see comment left)
Management Structure	Section 11 – Officers		UPDATED VERSION TO BE COPIED IN
Members' Code of Conduct	Section 20 – Codes and Protocols	Reviewed internally in summer 2022 and approved by Constitution working group.	NOT IN SCOPE – Bernie to add provisions relating to Values and updated version to be included in final Constitution
Standards Procedures	Section 8 – Standards	<p>Follow on from Standards provisions so all information is in one place.</p> <p>Reviewed internally in summer 2022 – Constitution Task and Finish Group to review and confirm happy with content.</p> <p>Suggestion has been made that further sanctions might be recommended for inclusion by the constitution working group – TBC.</p>	NOT IN SCOPE – this has been added to section 8 and formatted to conform to the rest of the Constitution. Some non-substantive changes have been made for clarity/consistency. <b>To be approved by Committee/group responsible for</b>

			<b>previous review (changes shown in track)</b>
Officers' Code of Conduct	Section 20 – Codes and Protocols	Very light touch review to conform formatting, defined terms etc. New wording included to cover Nolan Principles.	COMPLETE (with a few outstanding questions)  <b>To be circulated to LMT and the Trade Unions for approval</b>
Protocol for Members and Officers on Gifts and Hospitality	Section 20 – Codes and Protocols	Very light touch review to conform formatting, defined terms etc.	COMPLETE (with a few outstanding questions)
Protocol on Member/Officer Relations	Section 20 – Codes and Protocols	Reviewed by roles and responsibilities working group.  The format has been conformed to the rest of the Constitution and some non-substantive amendments have been made.  TBC whether wording needs to be included to reference the Council's Values.	COMPLETE – <b>to be approved by group responsible for previous review</b>
Filming of Council Meetings	Section 20 – Codes and Protocols	Very light touch review to conform formatting, defined terms etc. and to update a statutory reference.	COMPLETE
Group Leader Role Profile	Appendix 2	Light touch review to conform format and defined terms.  Moved to come after Code of Corporate Governance so that all role profiles are together.	COMPLETE

		NOTE: This is not in the current Constitution table of contents	
Code of Corporate Governance	Appendix 1	Light touch review to conform to format and defined terms.	COMPLETE
Monitoring Officer Protocol	Appendix 3	Light touch review to conform to format and defined terms.	COMPLETE
Statutory Officer Profiles	Appendix 4	Light touch review to conform to format and defined terms.	COMPLETE
Proper Officer Functions	Appendix 5	Light touch review to conform to format and defined terms.  Statutory references moved to footnotes.	COMPLETE (with a few outstanding questions, particularly relating to repealed legislation)
Councillor Calls for Action Procedure and Guidance	Appendix 6		NOT STARTED – to consider whether this can be simplified
Financial and Contract Procedure Rules (Standing Orders)	Separate document – referred to in section 14		NOT STARTED
Scheme of Delegation	Separate document – referred to in section 15		NOT STARTED



**Substantive changes to the Constitution**

Provision	Change made	Commentary
General	The approach taken has been to simplify the wording of the Constitution to make it more accessible.	<p>The substance of the Constitution is largely unchanged (save as set out in this table), but over-complicated wording and sections that have been added to e.g., try to cover off every possible eventuality have been pared back.</p> <p>The Constitution is modelled on the Denbighshire County Council Constitution, which has a similar basis to the Middlesbrough Constitution, but in a simpler format.</p> <p>The Constitution has a series of FAQ-style headings in each section for ease of understanding and navigation.</p>
General	Section 2 includes a definitions section.	There are several key terms that are used throughout the Constitution that were not previously defined (or at least not in one place). The definitions section provides a single point of reference for any defined term.
General	Each section includes an explanatory note setting out what it covers.	This is for ease of navigation of the Constitution and so that the reader can see at a glance what each section is about.
General	References to legislation have been removed unless required for e.g., definitions.	<p>Including legislative references can be distracting for the reader and they are not absolutely necessary to the understanding of the Constitution.</p> <p>Legislative provisions have been included as footnotes – TBC whether this will be internally facing only to avoid potential issues relating to (a) the public having access to a level of information that is not required for them to understand the Constitution, and may in fact create confusion or misinterpretation; and (b) the risk of references being incorrect/out of date, which could open the Council up to challenge/criticism.</p>
General	In the final version of the document, the intention is for sections in the table of	This has not yet been done as the document is still a work in progress and the numbering is not fixed.

	contents, and any cross references within the Constitution, to be hyperlinked for ease of reference.	
General	Procedure Rules have been moved to the relevant section of the Constitution to follow on from the Article provisions.	<p>This aligns with how the Denbighshire Constitution is set out.</p> <p>It makes it much easier to find all the information about how e.g., Full Council or the Executive operates without having to read across several sections of the Constitution.</p>
General	The Constitution has been amended to clarify that the Mayor is not a Councillor.	Where rules applicable to Councillors also apply to the Mayor, this has been specified.
Section 1 – Introduction	As the statutory officer roles are defined in section 2.2, they have been removed from the introduction. More detail of the roles is provided in section 11.	Inconsistency of use of the term Section 151 Officer and Chief Finance Officer has been resolved. Section 151 Officer has been preferred.
Section 2 – Interpreting the Constitution	The purpose of the Constitution has been simplified.	The new drafting gets to the heart of what the Constitution is for.
Section 2.3 – Who decides how the Constitution is to be interpreted?	The Monitoring Officer has final say on the legal interpretation of the Constitution	<p>Members, Officers and members of the public can rely on the Monitoring Officer to make a final professional judgement on any question of the legal interpretation of the Constitution.</p> <p>Note that this does not prevent the Chair of the Council from applying the Council Procedure Rules at a meeting, and relates specifically to legal questions of interpretation. See section 4.8 (Who decides how the Council Procedure Rules apply in Council meetings?)</p>
Section 3.5 – What are citizens' responsibilities in	Wording replaced with positive obligations	In the current Constitution, citizens' responsibilities were framed very negatively i.e., citizens should not abuse/attack Members and Officers. The revised wording frames responsibilities in a more positive way, with a

relation to the Council?		focus on engagement with the democratic process and treating Members and Officers with respect.
Section 4 – Full Council	Council Procedure Rules restructured and simplified.	More detail of changes made to the Council Procedure Rules is set out below.
Section 4 – Full Council	Responsibility for functions is covered in section 13. The wording of Article 4.4 has been moved to that section.	See section 13.3.
Section 4 – Full Council	A change has been made so that the Chair will only be responsible for interpreting the Constitution in the absence of the Monitoring Officer or their deputy at a Council meeting.	This is in line with the principle that the Monitoring Officer has final say on the interpretation of the Constitution.
Section 4.3.1 – Policy Framework	Deleted <ul style="list-style-type: none"> <li>• Change Strategy</li> <li>• Youth Justice Plan</li> </ul>	<p>Under section 4.2 of the Constitution, Full Council must approve the Policy Framework. Section 4.3.1 sets out the elements that form the Policy Framework. In the current Constitution, this includes the Change Strategy and the Youth Justice Plan.</p> <p>These have both been deleted from the list because:</p> <ul style="list-style-type: none"> <li>• Middlesbrough does not currently have a Change Strategy; and</li> <li>• The Youth Justice Plan does not require the approval of Full Council</li> </ul>
Section 4.5(f) – What is the Chair’s role?	Amended wording around being the “public conscience” of the Council.	It was felt that it wasn’t clear what this means. The provision has been amended to clarify that the Chair upholds the principles of the Constitution and the Members’ Code of Conduct.
Section 4.8 – Who decides how the Council Procedure Rules	Still for the Chair to decide, but made explicit that this is on the advice of the Monitoring Officer.	This happens in practice, particularly in relation to issues of legality.

apply in Council meetings?		
Section 4.9 – How do the Council Procedure Rules apply to the Executive and Committees?	Section added to explain how the Council Procedure Rules apply to the Executive and Committees.	States which rules apply to Committees (all others apply to Full Council only).  Refers to Executive Procedure Rules for rules relating to Executive meetings.
Section 4.11.2(f) – Committee and political balance arrangements	Clarification sought on whether Committee chairs should be appointed by Committees or Full Council at the annual meeting.	
Section 4.14.1 – Time of meetings	Specific time and place for meetings deleted.	This level of detail is not necessarily required and will be included in the summons in any event. Not specifying time and place also allows for flexibility if it's required. It is also “the way things we do things round here”.
Section 4.19.2 – Are Members allowed to attend Council meetings remotely?	Clarification that external speakers may attend meetings remotely.	For example, an external expert who is presenting to OSB.
Section 4.20.5 – Scope of questions	Simplified, with a catch all for anything that the Chair, with the advice of the Monitoring Officer, considers inappropriate.	This gives the Chair discretion to reject a question that is not appropriate, without spelling out every specific example of when that might be the case.
Section 4.21.1	Clarification as to when the time for questions will be extended.	This applies when there is a pressing need for public debate that cannot wait until the next meeting.

Section 4.26.2 – Questions on notice	The timing for submission of questions to Members and Executive Members has been aligned (i.e., 3 days before the relevant meeting, unless urgent).	This incorporates a change requested by Democratic Services.
Section 4.28.2 – Previous motions	New provisions included relating to the scope of motions as they relate to previous motions.	A motion or amendment to rescind a motion agreed within the previous six months needs to be signed by 10 Members.  A motion or amendment in similar terms to a motion that has been rejected in the previous six months needs to be signed by 20 Members.
Section 4.27.3 – Motion set out in agenda	Clarified to confirm that a motion can be withdrawn at any point before or during a meeting.	I.e., a motion can be withdrawn right up until the point the Member moves it.
Section 4.31.1 – Amendments to motions	The wording of a motion may be amended as long as the effect of amendment does not negate the effect of the motion.	This is standard practice for Middlesbrough, but worth clarifying.
Section 4.33.1 – Motions which may be moved during debate	Added that a motion to move directly to a vote can be moved during debate.	Reflects practice.
Section 4.35 – What is a personal explanation and when is it used	Clarified that a personal explanation is a point of clarification that relates specifically to an individual Member.	I.e., where a Member wishes to clarify something relating to them personally.
Section 4.37 – What is a motion of no confidence?	Additional wording added to explain the practical effect of a vote of no confidence.	It was felt that, as votes of no confidence often have no practical effect (i.e., they cannot remove an elected person), additional commentary was needed.

Section 4.39.1 – How is a motion of no confidence brought in respect of the Mayor, an Executive Member or a Member?	Clarified to distinguish between vote of no confidence in Executive Member as a member of the Executive, and as a Member (in a Ward context).	Different consequences for each i.e., Executive Member can be taken off the Executive by the Mayor, but can't be removed as a Member unless they resign, are disqualified or a successor is appointed.
Section 4.43 – What happens if a Member is disqualified	Clarification that, if a Member is disqualified from holding office, they will be removed from any position in the Council with immediate effect.	This section needs to cross-refer to provisions relating to disqualification.
Section 5.4 – How long does a Councillor's term last?	Clarity has been added about what happens if a Councillor leaves office before the end of their term.	Similar provisions relating to when the Mayor leaves office early have been added at section 6.4 – What is the Mayor's term of office?
Section 6 – The Mayor and the Executive	All provisions relating to the Mayor have been moved to sit with the provisions relating to the Executive.	Provisions relating to the Mayor fit more neatly with those relating to the Executive.  Section 6 cross-refers to section 5 to cover the common duties and rights of the Mayor as a Councillor.
Section 6 – The Mayor and the Executive	The Executive Procedure Rules have been simplified and clarified where appropriate.	See below for further details.
Section 6.6(b) – What is the Mayor's role?	Clarity added to confirm that the Mayor's role includes providing overall <u>strategic</u> direction to the Council.	The current provision that the Mayor provides "overall direction" was felt to be too broad and not in line with the Mayor's remit.

Section 6 – Executive Procedure Rules	Provisions relating to conflicts of interest deleted	These provisions cross refer to the Member Code of Conduct and this section of the Executive Procedure Rules did not anything substantive.
Section 7 – Overview and Scrutiny	The Scrutiny Procedure Rules have been restructured and simplified.	See below for further details.
Section 7.3.1(d)	OSB’s right to question Officers about their “views” on issues and proposals changed to “detail of the facts of an issue”.	It is not for Officers to offer their opinion on issues and proposals to OSB, but to clarify any issues of fact to aid its scrutiny function.
Section 7.3.4 - Finance	Changes to provide clarity on OSB’s role in Budget-setting.	TBC
Section 7.3.5 – Audit	Clarification of OSB’s role in relation to audit.	TBC
Section 7.3.6 – Annual report	Note the requirement for OSB to provide an annual report to Council on its recommendations and forward work plan	This requirement is in the current Constitution but has not been happening in practice. The purpose of the annual report is to demonstrate how OSB is adding value and provide an overview of its activities (which is different from the purpose of its regular reporting, which covers matters arising at the most recent committee meeting(s)).
Section 7.11 – How is the Overview and Scrutiny Board work programme set?	Wording regarding taking into account non-majority party views amended.	The Constitution currently says that OSB should take into account the wishes of Members not in the largest political party. The new wording achieves a similar effect but it is qualified slightly in that if there are no members from e.g. the Conservatives on OSB, then their wishes can't be taken into account.
Section 7.16.2 – When and how can Members and	Clarification of who is included in the definition of “Senior Officer”.	Senior Officers are Chief Officers, their deputies, and any other appropriate Senior Officer. Questions as to the appropriateness of an Officer being called to account are to be resolved by the Chief Officer and the relevant scrutiny chair.

Officers be called to give account?		
Section 7.23 – When can Call-In be triggered?	The list of reasons a decision can be called-in has been removed.	7.23.4 provides the principles on which Call-In should be exercised, which should be sufficient for its proper exercise to be monitored. There is a risk with a list like this that, if a decision falls even slightly outside the exclusions, someone could use that as a way to get round the restriction.
Section 7.23.4 – When can Call-In be triggered?	Provision included to say that, if Call-In hasn't been triggered in respect of a decision, it can be implemented on the 6 <sup>th</sup> day.	For completeness.
Section 7.24.1 – What is the process for Calling-In a decision?	New definition of 'Notice of Call-In of Decision'	This is the form to be filled in to trigger Call-In. The form will need to be updated match this.
Section 7.24.1 – What is the process for Calling-In a decision?	Provision added so that a Member who has a prejudicial interest in the decision being Called-In may not sign the Notice of Call-In of Decision.	To prevent conflicts of interest.
Section 7.24.4 – Meeting to consider Call-In	Clarification of when the timing for meeting runs from.	Constitution currently says no sooner than 10 working days from the "date of the decision to Call-In". It makes more sense for this to be the date the Notice is submitted.
Section 7.24.4 – Meeting to consider Call-In	New provision to require signatories to the Notice to attend the meeting at which Call-In is discussed.	



Section 7.25 – Does Call-In apply to urgent decisions?	Further provisions added to cover urgent decisions and make the process clearer.	These provisions allow the Chair/Vice Chair of the Council to determine urgency if the OSB chair is unavailable. It also requires the decision-maker to explain the reason for urgency.
Section 7.26 – When can Members and Officers be called to account in relation to Call-In?	These provisions have been simplified.	<p>The wording has been amended to make these provisions clearer and easier to read.</p> <p>The provision requiring that Officers be treated with respect has also been removed as this is an overarching principle in the Constitution and is covered by the Codes of Conduct and the Member/Officer Protocol.</p>
Section 7.27 – What happens at a Call-In meeting?	The process for scrutiny of Called-In decisions has been simplified and clarified.	<p>There are separate sub-headings for different scenarios (i.e., referral back to decision-maker; referral to Full Council) and the wording has been stripped back slightly.</p> <p>New provisions have been included to confirm what happens if OSB decides there is no case to answer (7.27.4) and if the original decision is confirmed by the decision-maker (7.27.5).</p> <p>If there is no case to answer, the Monitoring Officer will inform the Mayor, the Chief Executive and any delegated decision taker that the decision can be implemented.</p> <p>If the original decision is confirmed by the decision-maker, it cannot be subject to further Call-In. The decision-maker should demonstrate that they have considered OSB's recommendations.</p>
Section 7.28 – How are decisions that are contrary to the Budget and	Provisions relating to referring Call-In to Full Council deleted.	<p>These provisions seemed to duplicate, and contradict in places, the rules around Calling-In decisions that are contrary to the Budget and Policy Framework set out in those Procedure Rules.</p> <p>All provisions relating to Call-in are now in one place.</p>

Policy Framework Called-In?		
Section 8 - Standards	Standards Procedure Rules	NOTE: The Standards Procedure Rules have been reviewed recently by the Council so have not been part of the scope of this review. However, they have been amended to follow the structure that has been used throughout the Constitution.
Section 8.3.2 – What is the role of the Standards Committee?	Changes to simplify the role of the Standards Committee	Focus is on Member Code of Conduct.  References to Officer Code of Conduct removed as this should be dealt with under the Officer Employment Procedure Rules.
Section 9 – Corporate Affairs and Audit	OSB provisions moved to section 7.	In the current Constitution, there are three paragraphs at the end of the Article that refer to OSB, while the rest of the provisions seem to relate to the Corporate Affairs and Audit Committee.  See sections 7.2.1(a), 7.2.2 and 7.2.3.
Section 11.3.6 – Advising whether Executive decisions are with the Budget and Policy Framework	Clarified to provide that this advice is provided in conjunction with the Section 151 Officer.	The Section 151 Officer will work with the Monitoring Officer to advise on financial matters relating to the Budget.
Section 11.8.2 – Seeking support for an appointment	Additional provision added so that any Councillor or the Mayor may not give a reference for an appointment to the Council.	Current Constitution says that Councillors and the Mayor should not seek support for such an appointment and this clarifies that a reference would also not be appropriate support.
Section 11.10 – How are Chief Officers appointed?	“Appointment Committee” changed to “Chief Officers Appointments Committee”	To match Proper Officer Functions wording.

Section 11.12.1 – What is a Political Assistant and how are they appointed?	Definition of Political Assistant added.	Follows section 9 LGHA.
Section 11.13 – Can the Mayor appoint an assistant?	Wording added to clarify that the Mayor's assistant will be a Council employee.	
Section 11.15.2 – Other Chief Officers	Updated reference to Joint Negotiating Committee Conditions of Service.	The disciplinary model procedure is now contained in Part Four.
Section 16 – Access to Information Procedure Rules	Provisions relating to Executive meetings moved to section 6 (Executive Procedure Rules).	These seem to fit more naturally here – the concern Executive procedure more than public access to information.
Section 16 – Access to Information Procedure Rules	Simplification of exclusion of reports wording.	“If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 14, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.”
Section 16 – Access to Information Procedure Rules	Wording re disturbance deleted.	This is covered elsewhere.

Section 16 – Access to Information Procedure Rules	Wording in records of decisions section looks to be repeated from public right to copies of documents.	Deleted and replaced.
Section 16 – Access to Information Procedure Rules	Moved the following wording to come after limits on access to information by scrutiny:  “Where the Monitoring Officer determines that Overview and Scrutiny boards are not entitled to a copy of the document that has been requested for the reasons set out above , the Executive must provide the Overview and Scrutiny Board, or the relevant Scrutiny Panel, with a written statement setting out the reasons for that decision.”	This didn’t seem to fit the context when it followed the previous section as it refers to reasons for limiting access.
Section 16 – Access to Information Procedure Rules	Provisions relating to circulation of agendas/reports to Members/the Executive deleted.	These are covered in Council / Executive Procedure Rules.
Section 16 – Access to Information Procedure Rules	Provisions relating to Member access to material relating to forthcoming business deleted.	This is repetition of wording that is included elsewhere in the rules. As the Forward Work Programme section has been moved to the Executive Procedure Rules, it is not necessary to mention it specifically.
Officers’ Code of Conduct – What are the Nolan Principles and how do they apply to employees?	Nolan Principles added.	The Nolan Principles have been set out in full, and their application to public office-holders explained.

Officers' Code of Conduct, section 1.5(j) – In what circumstances may employees undertake private paid work?	Wording amended to clarify meaning and align more closely with other provisions in section 21.4.	Meaning unchanged.
Officers' Code of Conduct, section 1-16-1.18 – General	Provisions moved to fit more neatly with sub-headings.	Meaning unchanged.
Officers' Code of Conduct sections 1.22 and 1.23 – Protocol on Member / Officer Relations	Moved to the end of the Code of Conduct.	This fits more neatly at the end of the Code as it refers to Officers rather than employees (and the provisions that follow it currently go back to employees).
Protocol for Members and Officers on Gifts and Hospitality	References to “you” changed to Members and Officers. References to “the authority” changed to the Council.	For consistency with the rest of the Constitution and for clarity.
Protocol on Member/Officer Relations	Updated version added.	This has been reviewed and approved by the Roles and Responsibilities Governance Improvement Working Group. No further changes have been made to this, other than to align the numbering format with the rest of the Constitution and to tidy up some typos/make use of language consistent.
Filming of Council Meetings, section 1.1 – What rights do members of	Updated to refer to legislation that is now in force.	The Regulations were pending when this was last updated.  The Government guidance for members on the public on how to access Council meetings has been linked.

the public have to record Council meetings?		
Appendix 2, paragraph 1.1 – What is a group leader?	Wording added to note that each political group represented on the Council has a Group Leader.	For completeness.
Appendix 3, paragraph 1.2.2(q) – What are the working arrangements between the Monitoring Officer and Members and Officers	Clarified to refer to Parish Council Members as distinct from Council Members.	
Appendix 3, paragraph 1.4 – How are breaches of this Protocol dealt with?	Cross-reference to Standards Committee hearing procedure.	To clarify how this will be dealt with and to remove a reference to a sub-committee that was otherwise undefined.
Appendix 4, paragraph 1.5 – What are the Chief Finance Officer's statutory and constitutional responsibilities in relation to the	Duplicated bullet point deleted.	The following paragraphs have been merged into a single point (section 28.5(u)):  “consult the Monitoring Officer and the Strategic Commissioning and Procurement Technical Manager where contracts to work for organisations other than the Council are contemplated;”

administration of financial affairs?		“take advice from the Monitoring Officer, and the Strategic Commissioning and Procurement Officer must be consulted where contracts to work for organisations other than the Council are contemplated;”
Appendix 4, paragraph 1.13.1 – What are the statutory and constitutional responsibilities of the Complaints Manager?	Cross reference to section 3.4.	Section 3.4 sets out how members of the public can make complaints and links to the Council’s complaints scheme on the website.
Executive Arrangements	These have been copied across with a few minor tweaks.	These now follow the Executive Procedure Rules in section 6.  References to “financial and policy framework” replaced with “Budget and Policy Framework”
Executive Portfolios	Copied across “as is”.	These now follow the Executive arrangements in section 6.

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**Middlesbrough Borough Council  
Constitution  
WORKING DRAFT**

# **MIDDLESBROUGH BOROUGH COUNCIL**

## **CONSTITUTION**

**Made under the Local Government Act 2000<sup>1</sup>**

**[March 2023]**

***[Insert Middlesbrough logo]***

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<sup>1</sup> [Local Government Act 2000, section 9P](#)

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## **Section 1 – Introduction**

This section explains how the Council operates. It summarises the main provisions of the Constitution. If you would like to see the detailed provisions in relation to a particular Council function, you should refer to the relevant section of the Constitution.

Capitalised words used in this section 1 are defined in section 2.2.

### **1.1 What is the Constitution?**

- 1.1.1 The Constitution sets out how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to determine.
- 1.1.2 The Constitution contains [ ] sections, which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are set out in separate rules and protocols at the end of this document.

### **1.2 How does the Council operate?**

- 1.2.1 The Council is composed of a Mayor and 46 Councillors. The Mayor is directly elected by the electors of the Borough, normally for four years. The Mayoral election is held on the same day that Councillors are elected to represent each of the Wards within the Borough.
- 1.2.2 The Mayor and the Councillors are known as “Members” of the Council. Members agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council's Standards Committee advises Members on the Code of Conduct and ensures that they receive training on its requirements. Members are required to adhere to the Code of Conduct when fulfilling their duties.
- 1.2.3 Members decide the Council's overall policies and set the Budget each year. They also appoint various Committees to undertake certain delegated functions.
- 1.2.4 The Mayor appoints a Deputy Mayor and an Executive, which comprises up to nine elected Members.
- 1.2.5 Council meetings are normally open to the public.

### **1.3 How are decisions made?**

- 1.3.1 The Executive is responsible for most of the Council's day-to-day decisions. The Mayor is responsible for the Council's main executive decision-making powers and the overall delivery of Council services.
- 1.3.2 The Executive is held to account by the Council's scrutiny process. The Executive should make decisions in line with the Council's overall policies and any departure from this needs to be approved by the Council.

1.3.3 So far as possible, major decisions are published in the Executive's Forward Work Programme. Where Council Officers attend an Executive meeting to discuss a major decision, the meeting will be open to the public unless confidential matters are being discussed.

1.3.4 The Council's Budget and Policy Framework is set by the Council. The Mayor and Executive may make proposals to Council in relation to the Budget and other plans and strategies for adoption by Council.

#### **1.4 What happens if the Council doesn't agree with the Executive's proposals?**

The Council has the option to suggest amendments to any Budget, plan or strategy submitted by the Executive. The Executive can then consider the Council's input before re-submitting its proposal. The Executive's proposal will be accepted unless the Council votes for further amendments by a 2/3 majority.

#### **1.5 How are Council decisions scrutinised?**

1.5.1 The Council is held to account by the Overview and Scrutiny Board. The Board's reports and recommendations advise the Council and the Executive on matters relating to policy, service delivery and the Budget.

1.5.2 The Board can "call-in" a decision made by the Executive before it is implemented. The Board can then consider whether the decision is appropriate and make recommendations to the Executive.

1.5.3 The Executive may also consult the Board on forthcoming decisions and policy development.

#### **1.6 What is the role of Officers?**

Officers give advice, implement decisions, and manage the day-to-day delivery of the Council's services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between Officers, Councillors and the Mayor.

#### **1.7 What are the rights of citizens in relation to the Council?**

1.7.1 Members of the public may:

- (a) vote at local elections if they are eligible and registered;
- (b) contact the Mayor or their local Councillor about any matter of concern to them;
- (c) obtain a copy of this Constitution;
- (d) attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- (e) petition to request a referendum on the form of Executive the Council should adopt;

- (f) find out, from the Executive's Forward Work Programme, the key decisions that are to be discussed by the Executive, or decided by the Executive or Officers, and when;
  - (g) attend meetings of the Executive where key decisions are being discussed or decided;
  - (h) see reports and background papers, and any record of decisions made by the Council, its Committees and the Executive, except where they relate to personal or confidential information;
  - (i) complain to the Council about Council services, or any action or inaction which concerns them, for the matter to be investigated under the Council's complaints processes;
  - (j) complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. They should only do this after using the Council's own complaints processes;
  - (k) complain to the Council's Monitoring Officer if they have evidence that a Councillor has not followed the Council's Code of Conduct; and
  - (l) inspect the Council's accounts and make their views on those accounts known to the Council's external auditor.
- 1.7.2 The rights listed above do not include additional rights members of the public might have in relation to specific Services, for example, as a parent of a school pupil or as a Council tenant.
- 1.7.3 The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact either Democratic Services at The Town Hall, Middlesbrough, TS1 9FX and refer to the Summary of Rights for Public Rights of Access to Council Information.
- 1.7.4 **Section [ ]** sets out citizens' rights in more detail.



## Section 2 – Interpreting the Constitution

This section explains what the Constitution is for and how it is to be interpreted. It also sets out the rules for how the Constitution is to be monitored and reviewed, how it can be amended, how certain parts of it can be suspended, and how it is published.

### 2.1 What is the purpose of the Constitution?

- 2.1.1 The Constitution sets out the rules and procedures under which the Council operates.
- 2.1.2 It helps members of the public and other stakeholders understand how the Council makes its decisions. It also acts as a guide for the Mayor, Councillors and Officers in performing their roles.

### 2.2 Meanings of key terms used in the Constitution

Where capitalised terms are used in this Constitution, they will have the meanings set out below:

“Annual Meeting”	the annual meeting of the Council that takes place in March, April or May (or otherwise within 21 days of the retirement of outgoing Councillors following an election) and makes decisions in relation to the running of the Council for the Municipal Year;
“Borough”	the borough of Middlesbrough;
“Budget”	<p>the overall revenue and capital budget approved by Full Council.</p> <p>The Budget includes the allocation of financial resources to different Services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council’s borrowing requirement., the control of its capital expenditure and the setting of virement limits.</p> <p>(see section [ ]);</p>
“Byelaws”	local laws made by the Council under an enabling power contained in a public general act or a local act requiring something to be done – or not done – in a specified area <sup>2</sup> ;
“Chair”	the person who is elected as chair of the Council in accordance with the Council Procedure Rules;
“Chief Officers”	any Officer appointed by the Chief Officer Appointments Committee in accordance with the Officer Employment Procedure Rules (see <b>section 11.10</b> of this Constitution);

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<sup>2</sup> [The Byelaws \(Alternative Procedure\) \(England\) Regulations 2016](#)

“Committee”		any committee of the Council, including where relevant any sub-committee
		For the avoidance of doubt, reference to an “Executive Committee” shall mean a committee or sub-committee (as appropriate) of the Executive;
“Co-Opted Member”		a person who is not a Councillor but who sits on any Committee;
“Council”		Middlesbrough Borough Council;
“Councillor”		a person elected to the Council to represent an area (called a ward) within the Borough.
		For the avoidance of doubt, the Mayor is not a Councillor;
“Council Rules”	Procedure	the procedural rules for running the Council as set out in section [ ];
“Council Tax”		a tax levied on households by local authorities in Britain, based on the estimated value of a property and the number of people living in it;
“Executive”		a group of Members selected by the Mayor to exercise Executive Functions;
“Executive Decision”		any decision made by the Executive to exercise or refrain from exercising an Executive Function, including any decision made by a person or Member Body to whom Executive Decision-making powers have been delegated;
“Executive Function”		<p>(a) any function of the Council that is not exercisable by Full Council or any Member Body of the Council, as defined in the Local Government Act 2000, subsidiary legislation and associated guidance; and</p> <p>(b) contractual matters, the acquisition and disposal of land and financial support to organisations and individuals.</p> <p>For the avoidance of doubt, regulatory functions (including planning, licensing and building control) are not Executive Functions;</p>
“Executive Member”		a Councillor who is appointed as a member of the Executive;
“Forward Work Programme”		a notice setting out the matters which the Mayor believes will be subject to a Key Decision during the period covered by that forward work programme (Key Decisions are set out in more detail in section [ ]);

“Full Council”	the body where all Councillors and the Mayor act to exercise the functions of the Council;
“Head of Paid Service”	the Officer appointed by law to carry out certain functions. The Head of Paid Service will usually have other duties and a different job title (see <a href="#">section [ ]</a> for further details;
“Housing Land Transfer”	the approval or adoption of applications to the Secretary of State for approval of a programme of disposal of property or land in certain circumstances <sup>3</sup> ;
“Joint Arrangements”	an arrangement entered into by the Council with another local authority;
“Leadership Management Team” or “LMT”	the senior management body for Officers, which includes those Officers designated by the Head of Paid Service as members of LMT from time to time;
“Local Choice Functions”	functions where the Council has the authority to decide whether they are Executive Functions or reserved to Full Council <sup>4</sup> ;
“Mayor”	the person elected to act as leader of the Council;
“Member”	a Councillor, or a person chosen by the Council to serve on a Member Body (called a “Co-Opted Member”);
“Member Body”	<p>any of the following:</p> <ul style="list-style-type: none"> <li>• Full Council;</li> <li>• the Executive;</li> <li>• Overview and Scrutiny Board;</li> <li>• Standards Committee;</li> <li>• Corporate Affairs and Audit Committee; and</li> <li>• Any other Committee of the Council.</li> </ul> <p>For the avoidance of doubt, any reference to a Committee shall include its sub-committees;</p>
“Monitoring Officer”	the Officer appointed to carry out certain statutory reporting functions to the council where it appears to them the authority has done, or is about to do, anything

<sup>3</sup> Disposal of 500 or more properties to a person under the [Leasehold Reform, Housing and Urban Development Act 1993](#) or disposal of land used for residential purposes where approval is required under sections 32 or 43 of the [Housing Act 1985](#)

<sup>4</sup> [The Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#)

	which would contravene the law or which would constitute maladministration <sup>5</sup> ;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether decided by the Council or as a matter of law) or which is delegated to a Member Body other than the Executive;
“Officer”	a member of the Council’s staff;
“Policy Framework”	a framework comprising of the plans and strategies listed in <a href="#">section [ ]</a> ;
“Chief Finance Officer”	the Officer appointed to carry out certain statutory functions in relation to the Council’s financial administration <sup>6</sup> ;
“Service”	any of the services provided by the Council;
“Ward”	an administrative division of the Borough served by one or more Councillors.

## **2.3 Who decides how the Constitution is to be interpreted?**

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 The Chair of the Council will decide how this Constitution, and in particular the Council Procedure Rules, shall be applied in any Council meeting. The Monitoring Officer (or their deputy, as appropriate) will provide the Chair with advice on any relevant legal issues.
- 2.3.3 The Monitoring Officer (or their deputy, as appropriate) will determine any question of legal interpretation in relation to the Constitution.

## **2.4 How and when is the Constitution monitored and reviewed?**

- 2.4.1 It is the Monitoring Officer’s responsibility to monitor and review the Constitution. The Monitoring Officer will make recommendations for amendments to the Constitution as and when required, and in accordance with the requirements of [section \[2.5\]](#).
- 2.4.2 In making recommendations to amend the Constitution, the Monitoring Officer may consider:
  - (a) the effectiveness of the Council’s decision-making processes and its operation;
  - (b) issues raised by the Mayor, Councillors, Officers, the public and other relevant stakeholders;

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<sup>5</sup> [Local Government and Housing Act 1989, section 5](#)

<sup>6</sup> [Local Government Act 1972, section 151](#)

(c) best practice across the public sector, and/or

(d) any other relevant information.

## **2.5 When can the Constitution be changed and by whom?**

Any change to the Constitution must be approved by Full Council after consideration of a proposal by the Monitoring Officer, unless:

(a) it is, in the reasonable opinion of the Monitoring Officer, a minor change or is required to remove an inconsistency, ambiguity or typographical error;

(b) it is required to put into effect any decision of the Council or its Committees; or

(c) it is required to comply with a legislative provision,

in which case, the change may be made by the Monitoring Officer, who will report the change at the next Full Council meeting. The change will take effect on the date decided by the Monitoring Officer or, where appropriate, the date set out in the relevant legislation.

## **2.6 When is the approval of the Mayor required to change the Constitution?**

Any resolution of Full Council to approve a change to the Constitution requires the written consent of the Mayor. This does not apply if the change only relates to the operation of the Overview and Scrutiny Board.

## **2.7 What is the process for changing from a Mayoral form of Executive?**

Before changing the Constitution to implement a different form of Member governance, the Council must take reasonable steps to consult with local electors and other interested persons in the Borough when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.

## **2.8 When can the Constitution be suspended?**

2.8.1 The Articles of the Constitution (sections [X-Y]) may not be suspended.

2.8.2 Any of the Council Procedure Rules may be suspended by a motion if at least one half of all Councillors is present at a meeting and a vote is passed. Suspension can only be for the duration of the meeting. The Chair may use their casting vote to prevent the suspension of a Council Rule of Procedure.

## **2.9 Where is the Constitution published?**

2.9.1 The Monitoring Officer will ensure that copies of this Constitution are available on the Council's website and in hard copy on request (for a reasonable fee).

2.9.2 The Monitoring Officer will provide a link to a copy of this Constitution to each newly elected Councillor upon receiving that Councillor's declaration of acceptance of office.

- 2.9.3 The Monitoring Officer will ensure that the published version of the Constitution is updated when any substantive change is made to it.

### **Section 3 – Citizens and the Council**

This section sets out the rights of citizens in relation to the Council. Citizens' rights to information are explained in more detail in the Access to Information Procedure Rules in **Part X** of this Constitution.

#### **3.1 Who has a right to vote and sign petitions?**

Citizens on the electoral roll for the Borough have the right to vote and sign a petition to request a referendum to change the structure of Member governance.

#### **3.2 To what information can citizens have access?**

Citizens have the right to:

- (a) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed;
- (b) attend meetings of the Executive when key decisions are being considered except where confidential or exempt information is likely to be disclosed;
- (c) find out from the Forward Work Programme what key decisions will be taken by the Executive and when;
- (d) see reports and background papers (except where they relate to confidential or exempt information) and any records of decisions made by the Council, its Committees and the Executive;
- (e) inspect the Council's accounts and make their views on them known to the external auditor.

#### **3.3 How can citizens participate in Council functions?**

Citizens have the right to participate:

- (a) in the time allotted for questions from the public at Council meetings as specified in the Council Procedure **Rules [section [ ]]**;
- (b) by speaking and asking questions of the Executive and Committees with the prior consent of the relevant Committee chair;
- (c) by contributing to investigations made by the Overview and Scrutiny Board by invitation.

#### **3.4 How can a citizen make a complaint?**

Citizens have the right to complain to:

- (a) the Council under its [corporate complaints policy](#);

- (b) the [Local Government and Social Care Ombudsman](#) after using the Council's own [complaints scheme](#); and
- (c) the Monitoring Officer about a breach of the [Members' Code of Conduct](#).

### **3.5 What are citizens' responsibilities in relation to the Council?**

The Council invites citizens to engage positively with the democratic process and to participate in municipal life in the ways set out in this Constitution. The Council expects citizens to treat the Mayor, Councillors and Officers with respect and to respect its policies, processes and rules.



## **Section 4 – Full Council**

This section explains how Full Council operates and describes its functions.

### **4.1 What is Full Council?**

Full Council is a formal meeting of all Councillors and the Mayor. Full Council is required by law to take certain important decisions, including setting the Budget and Council Tax, and approving several key plans and strategies (which together form the Policy Framework). It is responsible for all the functions that are not Executive Functions. It carries out some of those functions itself, and others are delegated to Committees or named Officers.

### **4.2 What functions does Full Council have?**

The following functions are reserved to Full Council:

- (a) save as otherwise set out in section 2, adopting, amending and changing this Constitution;
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in **section [ ]**, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) agreeing and/or amending the terms of reference of a Committee, other than an Executive Committee;
- (e) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (f) adopting an allowances scheme under **section [ ]**;
- (g) changing the name of the Borough, conferring the title of honorary alderman of Middlesbrough, or granting Freedom of the Borough;
- (h) confirming the appointment of the Head of Paid Service<sup>7</sup>;
- (i) dismissing the Head of Paid Service, Monitoring Officer, or Chief Finance Officer;

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<sup>7</sup> [The Local Authorities \(Standing Orders\) \(England\) Regulations 2001, Schedule 1, paragraph 4](#)

- (j) making, amending, revoking, re-enacting, or adopting Byelaws and promoting or opposing the making of local legislation or personal bills<sup>8</sup> (being bills related to the personal affairs of an individual);
- (k) all Local Choice Functions<sup>9</sup> set out in the Scheme of Delegation in **section [ ]** which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which by law must be reserved to the Council.

#### **4.3 Further information about Council Functions**

##### **4.3.1 The Policy Framework**

The Policy Framework is made up of the following plans and strategies:

- (a) Mayor's Vision;
- (b) Medium Term Financial Plan;
- (c) Capital Strategy and Council's Budget Strategy, which are contained within:
  - (i) Council Tax Base;
  - (ii) Revenue Budget;
  - (iii) Council Tax; and
  - (iv) Prudential Indicators;
- (d) Licensing Authority Policy Statement;
- (e) Statement of Principles Gambling;
- (f) Local Development Plan (Local Development Framework / Local Plan);
- (g) Local Transport Plan; and
- (h) Pay Policy Statement.

#### **4.4 Who chairs Full Council?**

A Chair and Vice-Chair are appointed by Full Council each year. The Vice-Chair will chair Council meetings in the Chair's absence.

If neither the Chair nor the Vice-Chair is present at the meeting, the Monitoring Officer (or their representative) will open the meeting and ask for nominations for the position

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<sup>8</sup> [Local Government Act 1972, section 239](#)

<sup>9</sup> [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#)

of Chair. The Chair for the duration of the meeting, or until the Chair or Vice-Chair joins the meeting, will be elected by a majority vote.

#### **4.5 What is the Chair's role?**

The Chair's role includes:

- (a) upholding and promoting the purposes of the Constitution, and interpreting the
- (b) Constitution in the absence of the Monitoring Officer or their deputy;
- (c) presiding over Council meetings so that its business is carried out efficiently and with regard to the rights of Councillors and the Mayor and the interests of the community;
- (d) ensuring that Council meetings are a forum for the debate of matters of concern to the local community and the place at which Councillors can hold the Executive to account;
- (e) promoting public involvement in the Council's activities; and
- (f) upholding the principles of the Constitution and the Members' Code of Conduct.

#### **4.6 What is the Chair's relationship with the Mayor?**

**First Citizen:** The Mayor is the first citizen of Middlesbrough and takes precedence over the Chair<sup>10</sup>.

**Promotion of the Council:** Together with the Mayor, the Chair will promote the Council and act as a focal point for the community.

### **COUNCIL PROCEDURE RULES**

#### **4.7 What are the rules of procedure and debate for Full Council?**

The Council Procedure Rules contained in **sections [ ]** below will apply to meetings of Full Council.

#### **4.8 Who decides how the Council Procedure Rules apply in Council meetings?**

The Chair of the Council, with advice from the Monitoring Officer, has the final say on the application of the Council Procedure Rules set out below. If circumstances arise that are not covered by the Council Procedure Rules, the Chair decides what happens. If anything arises outside a Council meeting that would require action from the Chair, they are authorised to take any action they consider appropriate.

#### **4.9 How do the Council Procedure Rules apply to Committees?**

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<sup>10</sup> As first citizen, the Mayor takes precedence over all citizens except His Majesty the King. [Local Government Act 1972, section 3](#)

The Council Procedure Rules apply to Committees as set out in section [ ].

For the avoidance of doubt, the procedure rules relating to Executive meetings are set out in section [ ].

## **TYPES OF MEETING AND HOW THEY ARE CONDUCTED**

### **4.10 What types of Council meetings are there?**

There are three types of Council meeting:

- (a) the Annual Meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings.

### **4.11 How is the Annual Meeting of the Council conducted?**

#### **4.11.1 Timing of the Annual Meeting**

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.

#### **4.11.2 Business to be conducted at the Annual Meeting**

The Annual Meeting will:

- (a) elect a person to preside at the meeting if the Chair and Vice Chair are not present;
- (b) elect the Chair and the Vice Chair of the Council, unless either has been elected *pro tem*;
- (c) approve the minutes of the last meeting;
- (d) receive any announcements from the Chair, the Mayor and/or the Head of Paid Service;
- (e) receive any declarations of interests from Councillors
- (f) be informed by the Mayor of the number of Members to be appointed to the Executive;
- (g) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in the Scheme of Delegations);

- (h) at an Annual Meeting after an election, or where there has been a change in the composition of the Executive or the person holding the office of Deputy Mayor, be informed by the Mayor of the Councillors who will form the Executive, including the Deputy Mayor;
- (i) receive the Scheme of Delegations;
- (j) approve a programme of ordinary meetings of the Council for the year;
- (k) consider any business set out in the notice convening the meeting; and
- (l) receive the Mayor's annual address.

#### **4.11.3 Committee and political balance arrangements**

At the Annual Meeting, the Council meeting will:

- (a) decide which Committees to establish for the Municipal Year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules<sup>11</sup>;
- (d) receive nominations of Councillors to serve on each Committee and/or any outside body;
- (e) appoint Councillors to Committees and/or any outside bodies (unless such appointments have been delegated or are reserved to the Executive); and
- (f) appoint Committee chairs and vice chairs in accordance with section [ ].

#### **4.12 How are ordinary meetings of the Council conducted?**

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

4.12.2 The order of business at ordinary meetings will be as follows:

- (a) elect a person to preside if the Chair and Vice Chair are not present;
- (b) receive any declarations of interest from Members;
- (c) receive any apologies for absence;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chair, the Mayor, the Executive and/or the Head of Paid Service;

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<sup>11</sup> [Local Government and Housing Act 1989, sections 15-17](#)

- (f) receive any report from the Mayor and receive questions and answers on the report;
- (g) receive any report(s) from the Executive and receive questions and answers on the report;
- (h) receive any reports from Committees and receive questions and answers on those reports;
- (i) receive any reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (j) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Board;
- (k) consider motions; and
- (l) deal with questions from Members in accordance with Rule 4.19
- (m) receive questions from, and provide answers to, the public in the provisions of 4.18.

#### **4.13 How are extraordinary meetings of the Council conducted?**

##### **4.13.1 Calling extraordinary meetings**

Extraordinary meetings may be called:

- (a) at the request of the Chair of the Council;
- (b) by the Council by resolution;
- (c) at the request of the Monitoring Officer; or
- (d) by any five Members of the Council (which may include the Mayor) if they have signed a requisition presented to the Chair of the Council and the Chair has refused to call a meeting or has failed to call a meeting within seven (7) days of the presentation of the requisition.

##### **4.13.2 Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from Committees etc. except that the Chair may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

#### **4.14 What is the timing, location and duration of Council meetings?**

#### 4.14.1 Time of meetings

The time and place of meetings will be determined by the Chair and notified in the summons.

#### 4.14.2 Duration of meetings

- (a) Any meeting of the Council that has lasted for three hours will be adjourned immediately. Any remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.
- (b) Notwithstanding (a) above, where a meeting includes the presentation of awards or presentations by outside bodies, the permitted duration is extended to 3 hours 30 minutes.

### 4.15 **How is notice of a Council meeting given?**

- 4.15.1 The Council will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in **section 14** of this Constitution. At least five (5) working days before a meeting, the Monitoring Officer will send a signed summons to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- 4.15.2 The agenda and reports for each meeting will be made available to Members in electronic form at least five (5) working days before the meeting, unless a report is confidential or contains exempt information, in which case it will only be shared with Executive Members or members of the relevant Committee.

### 4.16 **Who chairs Council meetings?**

The person presiding at the meeting may exercise any power or duty of the Chair.

### 4.17 **What is the quorum for Council meetings?**

- 4.17.1 The quorum of a meeting will be 25% (12) of the whole number of Members (including the Mayor) (47). For the avoidance of doubt, the whole number of Members does not include vacancies.
- 4.17.2 If a quorum is not present within five minutes of the start of a Council meeting, the meeting will be abandoned. The business of the meeting will be considered at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.

### 4.18 **How are Council meetings cancelled, postponed or rearranged?**

- 4.18.1 A Council meeting may be cancelled, postponed, or rearranged by the Chair, or the Vice Chair in the Chair's absence.

4.18.2 The Monitoring Officer may cancel, postpone, or rearrange a meeting if they are satisfied that there is no appropriate business to be considered at the meeting.

4.18.3 24 hours' notice must be given of any cancellation, postponement, or rearrangement of a meeting, and a reason must be given.

**4.19 Are Members allowed to attend Council meetings remotely?**

4.19.1 Members, including the Mayor, may not attend Council or Committee meetings remotely.

4.19.2 A person called to a meeting who is not a Member or an Officer, for example, an external expert, may attend a meeting remotely.

**QUESTIONS AT A MEETING – GENERAL**

**4.20 What is the scope of questions that can be asked at a Council meeting?**

The Chair, on the advice of the Monitoring Officer, may reject a question if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the Borough;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information; or
- (e) is otherwise inappropriate to be raised at a Council meeting.

The Chair shall ultimately decide if a question is appropriate to be raised at a Council meeting.

**4.21 How much time is allotted for questions at a Council meeting?**

4.21.1 The time permitted for questions from members of the public and Councillors at any Council meeting is 30 minutes. The Chair may, at their discretion, extend the time permitted for questions to 45 minutes where there is a pressing need for debate in a public forum that cannot wait for the next meeting.

4.21.2 Questioners will be allowed two minutes to ask their question, and Councillors will be allowed three minutes to respond to any question put to them.

4.21.3 Any questions that cannot be answered within the allotted time will receive a written response.

**4.22 Can a question be withdrawn?**



If a questioner wishes to withdraw a question before the agenda papers for a Council meeting have been circulated, they may do so without consent. If the agenda papers have been circulated, a question may only be withdrawn with the consent of the person to whom it was put.

#### **4.23 When will a question be referred to the Executive or a Committee?**

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

#### **4.24 How are questions recorded?**

4.24.1 The Monitoring Officer will maintain a record of questions submitted to the Council which is open to public inspection. Rejected questions will include reasons for rejection.

4.24.2 Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

### **QUESTIONS AT A MEETING – MEMBERS OF THE PUBLIC**

#### **4.25 How may members of the public ask questions of the Council?**

##### **4.25.1 General**

Members of the public may ask questions of the Mayor, Executive Members or the Chair of a Committee at ordinary meetings of the Council (with the exception of the Annual Meeting and the meeting designated for setting the Budget).

##### **4.25.2 Order of questions**

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

##### **4.25.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than 5.00pm seven (7) working days before the date of the meeting. Each question must give the name and address of the questioner and specify to whom the question is to be addressed (if appropriate). Questioners will be allowed two minutes to ask their question, and Councillors will be allowed three minutes to respond to any question put to them.

##### **4.25.4 Number of questions**

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of an organisation. No person may submit more than five questions in any Municipal Year without the Council Chair's consent.

##### **4.25.5 Asking a question at a Council meeting**

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### 4.25.6 Supplementary questions

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

#### 4.25.7 Written answers

Any question which cannot be dealt with during the time allotted for questions from the public, either because there is insufficient time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

### **QUESTIONS AT A MEETING – MEMBERS**

#### **4.26 How may Members ask questions at Council meetings?**

##### 4.26.1 Questions at Council meetings

Subject to the rest of **this Rule 14.18**, a Member of the Council may ask:

- (a) the Mayor;
- (b) an Executive Member;
- (c) the chair of any Committee;

a question at a Council meeting.

##### 4.26.2 Questions on notice

- (a) Subject to **Rule 4.19.4**, a Member may ask the Chair, the Mayor, an Executive Member, or the chair of a Committee a question or make a comment on any matter in relation to which the Council has powers or duties or which affects Middlesbrough as a whole, and which (in the case of a Committee) falls within its terms of reference.
- (b) Members must submit to the monitoring Officer any question they wish to pose to a Member or an Executive Member three (3) working days before the date of the relevant Council meeting. If the question relates to urgent matters, it will be sufficient for the Member to submit the question to the Monitoring Officer before the meeting, provided the Member or Executive Member to whom the question is to be submitted has agreed.
- (c) The notice of questions to be posed at a meeting will be circulated to all Councillors after the closure of the notice period set out in this **section 4.19.2**.

#### 4.26.3 Questions without notice

Any Councillor may ask a question without giving notice in relation to any information, Executive report or Committee report circulated after 5.00pm the day before the meeting at which that item is to be considered, and where time allows.

#### 4.26.4 Order of Questions

Questions of which notice has been given under **Rule 4.19.2 or 4.19.3** will be listed on the agenda in the order determined by the Chair of the Council, or the chair of the relevant Committee.

#### 4.26.5 Content of Questions

Questions under **Rule 4.19.2 or 4.19.3** must, in the opinion of the Chair, with advice from the Monitoring Officer:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy; and
- (c) not relate to questions of fact.

#### 4.26.6 Response

An answer may take the form of:

- (a) A direct oral answer at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner.

#### 4.26.7 Supplementary Question

A Member asking a question under **Rule 4.19.2 or 4.19.3** may, at the Chair's discretion, ask one supplementary question without notice of the Member to whom the first question was posed. The supplementary question must arise directly out of the original question or the reply.

#### 4.26.8 Joint Committees, Joint Authorities, and outside bodies

Councillors may ask questions about the proceedings, and/or the discharge of functions, of Joint Committees, Joint Authorities, and outside bodies insofar as they affect the Council. Any such question must be submitted to the Monitoring Officer at least seven (7) working days before the relevant meeting.

## **MOTIONS**

#### **4.27 What are the notice requirements for motions?**

##### **4.27.1 Notice of motions**

Except for motions which can be moved without notice under **Rule 4.21** and in cases of urgency, written notice of a motion, must be delivered to the Monitoring Officer at least nine (9) working days before the Council meeting at which it is to be considered. Motions received will be open to public inspection.

##### **4.27.2 Urgent motions**

- (f) A Member may move an urgent motion provided that they provide at least three (3) working days' notice to the Monitoring Officer and the Chair. An urgent motion must be submitted in writing and be accompanied by a written explanation of the urgent matter to which it relates.
- (g) Whether a motion is urgent is at the sole discretion of the Chair. Urgent matters will generally have arisen after the normal deadline for submitting motions, and will concern matters which, in the opinion of the Chair, should not be delayed until the next ordinary meeting of the Council.

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

Motions for which notice has been given will be listed on the agenda in the order they are received. The Member submitting the motion may propose that it is moved to a later meeting or withdraw it at any point before or during the meeting.

#### **4.28 What is the scope of motions?**

##### **4.28.1 Subject matter of motions**

Motions must relate to matters for which the Council has a responsibility, or which affect the wellbeing of the administrative area of the Council.

##### **4.28.2 Previous motions**

- (a) A motion or amendment to rescind a motion agreed by the Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members (which may include the Mayor).
- (b) A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 20 Members (which may include the Mayor). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

#### **4.29 Which motions can be moved without notice?**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;

- (b) in relation to the accuracy of the minutes of a meeting;
- (c) to change the order of business in the agenda of a meeting;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adopt of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to extend the duration of the meeting beyond three hours;
- (m) to adjourn a meeting;
- (n) to suspend a particular Council Procedure Rule;
- (o) to exclude the public and press from a meeting in accordance with the Access to Information Procedure Rules;
- (p) to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

## **MOTIONS – RULES OF DEBATE**

### **4.30 When may Members make speeches in relation to a motion?**

#### **4.30.1 No speeches until motion seconded**

If a motion is accepted, the proposer shall read the motion out loud to the meeting. No speeches may be made until the motion has been seconded.

#### **4.30.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him before it is discussed.

#### 4.30.3 Secunder's speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

#### 4.30.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair.

#### 4.30.5 When a Member may speak again

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order;
- (f) by way of personal explanation; and
- (g) to answer a question directed at them by another Member.

### **4.31 How are motions amended?**

#### 4.31.1 Amendments to motions

- (a) An amendment to a motion must be submitted two (2) days before the meeting at which the motion will be debated, must be relevant to the motion, and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words,

as long as the effect of (ii) to (iv) is not to negate the effect of the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there is none, put it to the vote.

#### 4.31.2 Motions to amend the Budget

Proposed amendments to the Budget, must be submitted in writing at least three (3) working days before the meeting for review by the Chief Finance Officer.

#### 4.31.3 Alteration of motion

- (a) A Member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 4.31.4 Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on their amendment.

### 4.32 **When can a motion be withdrawn?**

#### 4.32.1 Withdrawal of motion

- (a) If a Member wishes to withdraw a motion before the agenda papers for a Council meeting have been circulated, they may do so without consent. If the

agenda papers have been circulated, a motion may only be withdrawn with the consent of the Chair of the Council.

- (b) A Member may withdraw a motion at a meeting at which it has been moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **4.33 What procedural motions may be moved during a debate?**

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the time for the meeting be extended beyond three hours;
- (h) to exclude the public and press from the meeting in accordance with the Access to Information Procedure Rules;
- (i) to not hear further a Member named **under Rule 4.29.3** or to exclude them from the meeting under **Rule 4.29.4**; and
- (j) to move directly to a vote on the motion.

##### **4.33.2 Closure motions**

- (a) A Member who has not previously spoken on a motion may move, without comment, the following motions at the end of a speech of another Member;
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.



- (b) If a motion to proceed to the next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply before putting their motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **4.34 What are points of order and when do they arise?**

- 4.34.1 A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately.
- 4.34.2 A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law that they consider has been broken, and the way in which it has been broken. The ruling of the Chair on the matter will be final.

#### **4.35 What is a personal explanation and when is it used?**

A Member may make a personal explanation (being a point of clarification relating specifically to an individual Member) at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

#### **4.36 How are motions voted on?**

##### **4.36.1 Majority**

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

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

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

##### **4.36.3 Method of voting**

Unless a ballot or recorded vote is demanded under **Rule 4.25.4**, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting

#### 4.36.4 Ballots

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

#### 4.36.5 Recorded vote

If 1/6th of the Members present at the meeting demand it, or if the motion relates to the Budget, Council Tax or the issuing of the precept<sup>12</sup>, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

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

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

#### 4.36.7 Voting on appointments

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

### **MOTIONS OF NO CONFIDENCE**

#### **4.37 What is a motion of no confidence?**

A motion of no confidence is a statement or vote about whether a person who holds a position of responsibility within the Council is fit to hold that position. Depending to whom the motion of no confidence relates, it may or may not have a practical effect. For example, people holding elected positions cannot be removed from those positions unless they are disqualified from holding such a post. However, votes of no confidence can be used to show the intent of the Council with regard to a particular person, and places it within a formal setting.

#### **4.38 Who can a motion of no confidence be brought against?**

A motion of no confidence may be submitted in respect of:

- (a) the Mayor;
- (b) an Executive Member;
- (c) a Councillor;

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<sup>12</sup> [The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2014, section 2](#)

(d) the Chair of the Council; and

(e) the chair of any Committee.

**4.39 How is a motion of no confidence brought in respect of the Mayor, an Executive Member or a Councillor?**

4.39.1 A motion of no confidence may be brought to the Council in respect of an Executive Member in relation to their position on the Executive; however, only the Mayor may remove an Executive Member from their position on the Executive.

4.39.2 A motion of no confidence may be brought to the Council in respect of the Mayor; however, the Mayor will remain in office until their resignation, disqualification, or the appointment of a successor.

4.39.3 A motion of no confidence may be brought to the Council in respect of a Councillor (including an Executive Member); however, they will remain in office until their resignation, disqualification, or the appointment of a successor.

**4.40 How is a motion of no confidence brought in respect of the Chair?**

4.40.1 A motion of no confidence may be brought to the Council in respect of the Chair; however, the Chair will remain in office until their resignation, disqualification, or the appointment of a successor<sup>13</sup>.

**4.41 How often can a person be subject to a vote of no confidence?**

Only one motion of no confidence in respect of an individual may be considered in any 12-month period.

**4.42 What happens if a Member is disqualified?**

If a Member (including the Mayor) is disqualified from holding office [in accordance with [section \[ \]](#)], they will be removed from office (including from any position they hold within the Council or on any Committee) with immediate effect.

**OTHER MATTERS FOR CONSIDERATION BY THE COUNCIL**

**Recommendations**

**4.43 Who may make recommendations to Full Council?**

Recommendations may be made to Full Council by the Executive, Committees and Statutory Officers.

**4.44 How are recommendations made to Full Council by the Executive?**

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<sup>13</sup> [Local Government Act 1972, section 3](#)

The Executive shall make recommendations to Full Council on matters falling within the Council's functions, on matters falling to the Council to determine, and on matters on which the Executive is required to consult with, or obtain the approval of, the Council. Any such recommendation shall be moved by the Mayor. A seconder is not required.

**4.45 How are recommendations made to Full Council by Committees?**

The Council shall consider the recommendations of any Committee on matters falling within that Committee's terms of reference. Any such recommendation shall be moved by the chair of the Committee. A seconder is not required.

**4.46 How are recommendations made to Full Council by Statutory Officers?**

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

**Petitions**

**4.47 When will a petition be considered by the Council?**

Any petition to be considered by the Council must have at least 500 signatures and should be submitted to the Monitoring Officer at least seven (7) working days before the date of the Council meeting at which it is to be considered.

**4.48 How are petitions dealt with by the Council?**

- 4.48.1 The [Council's Petition Scheme](#) applies to the consideration of any petition.
- 4.48.2 A petitioner will be given up to two minutes to present a petition to the Council meeting at which it is tabled.
- 4.48.3 The Mayor or Executive Member who has responsibility for the subject matter of the petition may speak, but the presentation of, and response to each petition received, is limited to no more than 5 minutes.
- 4.48.4 The Council cannot take any decisions, or pass any motion, in respect of any petition received that relates to Executive Functions.

**Reports**

**4.49 When can the Mayor present a report to the Council?**

- 4.49.1 The Mayor may present a report, or make a verbal statement, at every ordinary meeting of the Council.
- 4.49.2 The Mayor will be allowed ten minutes to present their report or make their verbal statement, unless the Chair permits otherwise.
- 4.49.3 The total time allotted in a meeting to the report / statement and any questions shall not be more than 30 minutes, unless the Chair permits otherwise.

#### **4.50 When can the chair of the Overview and Scrutiny Board report to the Council?**

- 4.50.1 The chair of the Overview and Scrutiny Board may present a report at any meeting of the Council, except the Annual Meeting and the meeting at which the Budget is set. The chair should set out the findings of the Overview and Scrutiny Board and the Scrutiny Panels, together with action plans and comments from the Executive.

#### **Executive matters**

#### **4.51 When are Executive matters considered by the Council?**

- 4.51.1 Executive Functions are considered by the Council at every ordinary meeting, except the Annual Meeting and the meeting at which the Budget is set. This includes reports from the Mayor and Executive Members, past decisions made by the Executive (including “single member” decisions”), and forthcoming business of the Executive, as notified to Members at least 10 working days before the date of the meeting.
- 4.51.2 The Council may not take any decision in relation to Executive Functions.

### **MINUTES OF MEETINGS**

#### **4.52 How are the minutes of Council meetings recorded?**

##### **4.52.1 Signing the minutes**

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

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

Where, in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, the next ordinary meeting will be treated as a suitable meeting for the purpose of signing those minutes.

##### **4.52.3 Form of minutes**

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

##### **4.52.4 Record of attendance**

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

##### **4.52.5 Exclusion of public**

Members of the public and press may only be excluded from a Council meeting either in accordance with the Access to Information Procedure Rules in **Section 14** of this Constitution or **Rule 4.30** (Disturbance by Public).

## **CONDUCT AT MEETINGS**

### **4.53 How should Members conduct themselves at Council meetings?**

#### **4.53.1 Speaking at meetings**

When a Member speaks at a Council meeting, they must stand and address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### **4.53.2 Chair speaking**

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

#### **4.53.3 Member not to be heard further**

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

#### **4.53.4 Member to leave the meeting**

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

### **4.54 What happens if a Council meeting is disturbed?**

#### **4.54.1 General Disturbance**

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

#### **4.54.2 Disturbance by the public**

##### **(a) Removal of member of the public**

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room. A member of the public so removed will not be entitled to return to the meeting, and may be subject to restrictions on their attendance at future meetings.

- (b) Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared. All members of the public involved in the general disturbance will not be entitled to return to the meeting, and may be subject to restrictions on their attendance at future meetings.

#### **4.55 Is filming and the use of social media permitted during Council meetings?**

- 4.55.1 Unless the press and the public are excluded from the meeting in accordance with the Access to Information Procedure Rules at **Part 3** of this Constitution, filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.

- 4.55.2 Mobile devices should be switched to silent during Council meetings.

### **SUSPENSION OF THE COUNCIL PROCEDURE RULES**

#### **4.56 When can the Council Procedure Rules be suspended?**

All of these Council Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Members are present and vote. Suspension can only be for the duration of the meeting.

### **COMMITTEES**

#### **4.57 How do the Council Procedure Rules apply to Committees**

The following Council Procedure Rules apply to Committee meetings:

- (d) Section 4.14 (What is the timing, location and duration of Council meetings?);
- (e) Section 4.15 (How is notice of a Council meeting given?);
- (f) Section 4.16 (Who chairs Council meetings?);
- (g) Section 4.17.2 (What is the quorum for Council meetings?);
- (h) Section 4.19 (Are Members allowed to attend Council meetings remotely?);
- (i) Section 4.29 (Which motions can be moved without notice?);
- (j) Section 4.30 (When may Members make speeches in relation to a motion?);
- (k) Section 4.41 (How often can a person be subject to a vote of no confidence?);
- (l) Section 4.42 (What happens if a Member is disqualified?);
- (m) Section 4.53 (How should Members conduct themselves at Council meetings?), except sections 4.53.1 (Speaking at meetings) and 4.53.2 (Chair speaking);

- (n) Section 54 (What happens if a Council meeting is disturbed?);
- (o) Section 55 (Is filming and the use of social media permitted during Council meetings?);
- (p) Section 56 (When can the Council Procedure Rules be suspended?);
- (q) Section 57 (How do the Council Procedure Rules apply to Committees?);
- (r) Section 58 (How are Committee chairs appointed?);
- (s) Section 59 (What is the quorum for a Committee meeting?);
- (t) Section 60 (How are Committee meetings cancelled, postponed or rearranged?);
- (u) Section 61 (Can a substitute attend a Committee meeting instead of a Councillor?); and
- (v) Section 62 (How is a motion of no confidence brought in respect of a Committee chair?).

For the avoidance of doubt, any reference to the Chair in the sections listed above shall apply to the chair of a Committee (unless the context dictates otherwise).

- 4.57.1 For the avoidance of doubt, the rules of procedure for meetings of the Executive and its Committees are set out in **section [ ]**.

#### **4.58 How are Committee chairs appointed?**

- 4.58.1 The Council will appoint all Committee chairs and vice chairs at its Annual Meeting.
- 4.58.2 Where there is a Committee chair vacancy, the relevant vice chair shall act as the chair until a replacement is appointed at the next ordinary meeting of the Council.
- 4.58.3 A chair or vice chair may resign from their post by written notice to the Monitoring Officer. Their resignation will take effect when the Monitoring Officer receives the notice.
- 4.58.4 If the chair and the vice chair of a Committee are absent from a meeting, the Committee members will appoint a chair for the meeting. The person presiding at the meeting may exercise any power of the chair. If the chair or the vice chair joins the meeting part-way through, they will act as chair for the remainder of the meeting.
- 4.58.5 Chairs and vice chairs of sub-committees shall be appointed by their parent Committee.
- 4.58.6 The Council may at any time remove the chair or vice chair of a Committee.



- 4.58.7 An Executive Member may not chair any meeting of the Council, the Overview and Scrutiny Board, a Scrutiny Panel, or the Corporate Affairs and Audit Committee.
- 4.58.8 Where the Council Procedure Rules apply to Committee meetings, references to the Chair should instead be read as references to the chair of that Committee.

**4.59 What is the quorum for a Committee meeting?**

The quorum for a Committee meeting will be the greater of three or 25% of the whole of the membership of that Committee. For the avoidance of doubt, the provisions of **section 4.5.2** apply equally to Committees.

**4.60 How are Committee meetings cancelled, postponed or rearranged?**

Cancellation, postponement, or rearrangement of Committee meetings is by the chair of the relevant Committee, or the vice chair in their absence. The provisions of **section 4.16** apply to any such cancellation, postponement, or rearrangement.

**4.61 Can a substitute attend a Committee meeting instead of a Councillor?**

- 4.61.1 The Monitoring Officer is permitted to appoint a substitute to a Committee if requested by a Member. The substitute shall be from the same Group as the Councillor for whom they are substituting.
- 4.61.2 A Member may also, by giving at least 24 hours' notice to the Monitoring Officer, designate a substitute to attend a Committee meeting. The designation shall apply to the specific meeting or for such longer period as the Member specifies. A Member may designate a different substitute for each Committee on which they sit.
- 4.61.3 A Member may terminate the designation of a substitute with immediate effect by written notice to the Monitoring Officer.
- 4.61.4 Substitute Members have the same powers and duties as the Committee member for whom they are substituting, save that they may not exercise any special powers or duties.
- 4.61.5 At the start of a meeting where a substitute has been appointed, they shall identify the Committee member for whom they are substituting, and that Member will be excluded from the meeting.

**4.62 How is a motion of no confidence brought in respect of a Committee chair?**

- 4.62.1 Any member of a Committee may submit a motion of no confidence against its chair to be added to the agenda of the next meeting of the relevant Committee. The Member must submit such a motion at least nine (9) working days before the date of the Committee meeting, unless the Monitoring Officer agrees that it may be submitted as an urgent item. Failure by the chair of the Committee to admit the motion of confidence may be submitted as a notice of motion to Council.
- 4.62.2 During consideration of the motion of no confidence, the Committee chair shall stand down and the Monitoring Officer, or their representative, will chair the meeting.

- 4.62.3 The motion of no confidence shall be debated in accordance with these Council Procedure Rules. If the motion is passed by a vote of at least two thirds of the Members present at the meeting, the Committee chair shall stand down immediately. The remainder of the meeting will be chaired by the vice chair of the Committee, or another Member elected for that purpose in the vice chair's absence.
- 4.62.4 Any vote of no confidence in a Committee chair must be approved by Full Council. If Full Council gives its approval, the Committee chair shall cease to hold that position. The Council shall appoint a new chair for the relevant Committee in accordance with these Council Procedure Rules.
- 4.62.5 A motion of no confidence in a Committee chair may be brought by a Member who is not a member of the Committee as a notice of motion to the Council.

## **Section 5 – Councillors**

This section explains the role of Councillors. It also sets out who can be a Councillor and how they are elected.

### **5.1 How many Councillors does the Council have?**

The Council comprises 46 Councillors.

### **5.2 Who can stand for election as a Councillor?**

Anyone who is a registered voter in the Borough, or who lives or works in the Borough, is eligible to stand for election as a Councillor.

### **5.3 How are Councillors elected?**

5.3.1 Councillors are elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Committee and approved by the Secretary of State.

5.3.2 Elections for Councillors are held every four years in May. Elections take place on the first Thursday in May.

### **5.4 How long does a Councillor's term last?**

5.4.1 A Councillor's term of office starts four (4) days after they are elected and ends four (4) days after the date of the next election.

5.4.2 If a Councillor ceases to be a Councillor before the end of their term of office, a by-election may be triggered.

### **5.5 What is a Councillor's role?**

#### **5.5.1 Key Roles**

Councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions for the Council;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
- (c) effectively represent the interests of their Ward and of individual constituents;
- (d) respond to constituents' enquiries and representations, fairly and impartially;
- (e) participate in the governance and management of the Council; and
- (f) maintain the highest standards of conduct and ethics.

#### 5.5.2 Rights and Duties

Councillors will:

- (a) have access to the documents, information, land and buildings of the Council they need to carry out their roles (in accordance with the law);
- (b) keep confidential and exempt information out of the public domain (unless the Council has given its consent) and not divulge confidential information to anyone other than a Councillor or Officer who needs to know it.

For the purposes of this **section 5.4.2**, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules **in Part 3** of this Constitution.

#### **5.6 How should Councillors behave?**

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

#### **5.7 What allowances do Councillors receive?**

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

## **Section 6 – The Mayor and the Executive**

This section explains the function of the Executive, which includes the Mayor as its leader. It also sets out the role of the Deputy Mayor.

### **6.1 What is the role of the Executive?**

The Executive is appointed to carry out all the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **6.2 What form does the Executive take?**

The Executive consists of the Mayor and at least two (2), but not more than nine (9), Councillors who are appointed by the Mayor.

## **THE MAYOR**

### **6.3 How is the Mayor elected?**

6.3.1 The Mayor is elected by the voters who live in the Borough.

6.3.2 Elections for Mayor are held every four years. The Mayor takes office four (4) days after they are elected.

### **6.4 What is the Mayor's term of office?**

6.4.1 The Mayor's term of office ends four (4) days after the date on which their successor is elected, unless they cease to be the Mayor on an earlier date.

6.4.2 If the Mayor ceases to be the Mayor before the end of their term of office, the Deputy Mayor shall become the Mayor.

### **6.5 Who can stand for election as Mayor?**

The eligibility criteria for the position of Mayor are the same as those for elected Members (see [section 5.2](#)).

### **6.6 What is the Mayor's role?**

The Mayor's role includes:

- (a) acting as the Council's principal public spokesperson;
- (b) providing overall strategic direction to the Council;
- (c) appointing the Executive and the Deputy Mayor;
- (d) deciding on the scheme of delegation for Executive functions;
- (e) chairing meetings of the Executive;

- (f) representing the Council on external bodies;
- (g) proposing the Budget and Policy Framework and any amendments to those documents;
- (h) promoting local strategic partnerships; and
- (i) acting as the Council's representative on the Tees Valley Combined Authority.

## **6.7 Is the Mayor a Councillor?**

6.7.1 The Mayor is not a Councillor, but the same rules apply to the Mayor unless the law or context requires otherwise<sup>14</sup>. In particular, the Mayor:

- (a) is subject to the same rules about qualification and disqualification as any other Councillor;
- (b) may be a member of, attend and speak at any meeting of the Council, its Committees and sub-committees, except the Standards Committee and Overview and Scrutiny Board. The Mayor may only speak at an Overview and Scrutiny Board or Standards Committee meeting when invited to do so and may not vote at those meetings;
- (c) will be taken into account when calculating seat allocations on Committees and sub-committees of which they are a member, if those allocations are required to be politically balanced;
- (d) is subject to the same rules about casual vacancies as apply to all Councillors.

6.7.2 All relevant provisions of section 5 apply to the Mayor in the same way as to Councillors.

6.7.3 The Mayor is the only person entitled to use the title of "Mayor".

## **THE DEPUTY MAYOR<sup>15</sup>**

### **6.8 How is the Deputy Mayor appointed?**

6.8.1 At the first Annual Meeting of the Council after their election, the Mayor will appoint a member of their Executive to act as Deputy Mayor.

6.8.2 The Deputy Mayor will hold office until the end of the Mayor's term of office unless they are no longer a Member of the Council or the Executive, they resign as Deputy Mayor, or they are removed from the position by the Mayor.

6.8.3 If the position of Deputy Mayor is vacant, the Mayor shall appoint another Deputy Mayor to fill the position.

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<sup>14</sup> [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002, paragraph 2](#)

<sup>15</sup> [Local Government Act 2000, Schedule 1A, paragraph 1](#)

## **6.9 What is the Deputy Mayor's role?**

- 6.9.1 The Deputy Mayor will step into the role of Mayor if the Mayor is for any reason unable to act, or if the office of Mayor is vacant. The Deputy Mayor will act as Mayor until the Mayor is able to act, or the office of Mayor is filled.
- 6.9.2 If the Deputy Mayor is unable to act as described above, the Executive will act as Mayor, or appoint a member of the Executive to do so.
- 6.9.3 The Deputy Mayor is also the Mayor's deputy as representative on the Tees Valley Combined Authority.

## **6.10 How is the Deputy Mayor removed from office?**

The Mayor may remove the Deputy Mayor from office. The Mayor should report any removal of the Deputy Mayor to the Proper Officer at the next meeting of the Council.

## **THE EXECUTIVE**

### **6.11 Who can be appointed to the Executive?**

- 6.11.1 The Mayor will appoint their Executive from among the Councillors.
- 6.11.2 No Member may be co-opted to the Executive and Executive Members may not have deputies or substitutes.
- 6.11.3 The Chair and the Vice Chair of the Council may not sit on the Executive.
- 6.11.4 Executive Members may not sit on the Overview and Scrutiny Board or any Scrutiny Panel.

### **6.12 How are Executive Members appointed?**

- 6.12.1 Subject to **section 6.2**, the Mayor will decide the size and composition of the Executive. Executive Members do not need to belong to a political group and the Executive need not reflect the political balance of the Council.
- 6.12.2 The Mayor will report Executive Member appointments to Full Council and the Proper Officer as and when they are made.
- 6.12.3 Executive Members will hold office until
  - (a) their appointment is terminated by the Mayor;
  - (b) they resign from the Executive; or
  - (c) they no longer a Councillor.
- 6.12.4 Any changes to the Executive should be reported to the Proper Officer and the next meeting of Full Council.

### **6.13 What happens if the Executive is unable to act?**

If all the Executive Members are unable to act for any reason, the Council will appoint an interim Executive to discharge the Executive Functions.

### **6.14 Proceedings of the Executive**

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

### **6.15 Who is responsible for the discharge of Executive Functions?**

The Mayor will maintain a list in **Part 2** of this Constitution setting out who is responsible for discharging Executive Functions (individual Executive Members, Executive Committees, Officers or Joint Arrangements).

## **EXECUTIVE PROCEDURE RULES**

### **DELEGATION OF EXECUTIVE FUNCTIONS**

### **6.16 How may Executive decisions be delegated by the Mayor?**

6.16.1 Executive Functions may be exercised by the Mayor.

6.16.2 The Mayor may also delegate authority to exercise Executive Functions (to the extent they determine) to:

- (a) the Executive as a whole;
- (b) an Executive Committee;
- (c) an Executive Member;
- (d) an Officer;
- (e) an area committee;
- (f) a Joint Arrangement; or
- (g) another local authority.

### **6.17 How are Executive delegations communicated to the Council?**

At the Annual Meeting of the Council, the Mayor will present the Council with a record of the delegations they have made for inclusion in the Scheme of Delegation. The record presented to the Council must contain the following information:

- (a) the names, addresses and Wards of the people appointed to the Executive by the Mayor;



- (b) the extent of any authority delegated to each of those Executive Members individually, including the limit on that authority;
- (c) the terms of reference and constitution of any Executive Committees appointed by the Mayor and the names of the Executive Members who have been appointed to those Committees;
- (d) the nature and extent of any delegation of Executive Functions to area committees, any other local authority or Joint Arrangement, and the names of any Executive Member appointed to a joint committee; and
- (e) the nature and extent of any delegation of Executive Functions to Officers, including any limit on that delegation, and the title of the Officer to whom the delegation is made.

#### **6.18 Can the Executive sub-delegate a delegated authority?**

- 6.18.1 The Executive may sub-delegate a delegated authority to an Executive Committee, an Officer, any Joint Arrangement, another local authority or to an area committee, unless the Mayor directs otherwise.
- 6.18.2 An Executive Committee may sub-delegate a delegated authority to an Officer, unless the Mayor directs otherwise.
- 6.18.3 The delegation of an Executive Function does not prevent them from being exercised by the person or body who delegated it.

#### **6.19 When can Executive delegations be changed in-year?**

- 6.19.1 The Mayor may amend the delegation of Executive Functions at any time by written notice to the Proper Officer setting out the change to be made. The Proper Officer shall inform all Councillors of any change within five (5) days and report it at the next ordinary meeting of the Council. The change takes effect on the date the Proper Officer informs Councillors of the change.
- 6.19.2 Where the Mayor withdraws or changes a delegation to a Committee, notice of this change to the chair of the Committee will be deemed to be notice to that Committee.

### **MEETINGS OF THE EXECUTIVE**

#### **6.20 When and where are Executive meetings held?**

- 6.20.1 The Executive shall meet at least 10 times a year at times to be determined by the Mayor. The Executive will meet at the Council's main offices or another location determined by the Mayor.
- 6.20.2 Regard will always be had to the principles of decision making set out in section 13 (Decision-Making) of this constitution in determining the status of meetings of the Executive and in relation to the frequency, timing and location of meetings.

6.20.3 Meetings of the Cabinet shall be convened in accordance with the Access to Information Procedure Rules in **Section 14** of this Constitution.

**6.21 What are the notice requirements for meetings of the Executive?**

6.21.1 Executive Members will be entitled to receive five (5) working days' notice of an Executive or Executive Committee meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency in accordance with **section [ ]**. The notice should set out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.

6.21.2 The agenda and reports for each meeting will be made available to Members in electronic form at least five (5) working days before the meeting.

**6.22 What is the quorum for an Executive meeting?**

The quorum at any meeting of the Executive, or any Committee of the Executive, is three.

**6.23 How are Executive meetings conducted?**

6.23.1 Chairing Executive meetings

If the Mayor is present at a meeting of the Executive, they will act as the chair. In the Mayor's absence, the Deputy Mayor will preside. In the absence of both, the Executive shall elect a chair for the meeting.

6.23.2 Attendance by others

- (a) Other Members, Officers and external stakeholders may be invited to private meetings of the Executive at the Mayor's discretion. For Executive Committees, such invitations are at the discretion of the chair of the relevant Committee.
- (b) Full details of who may attend meetings of the Executive and its Committees are set out in the Access to Information Procedure Rules in **Part X** of this Constitution.

**6.24 What business is transacted at Executive meetings?**

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

- (f) consideration of the minutes of the last meeting;
- (g) declarations of interest, if any;
- (h) matters referred to the Executive (whether by the Overview and Scrutiny Board or a Scrutiny Panel, or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules set out in **Part 4** of this Constitution or the Budget and Policy Framework Procedure Rules set out in **Part X** of this Constitution;

- (i) consideration of reports from the Overview and Scrutiny Board or a Scrutiny Panel;
- (j) reports from Member bodies which are the responsibility of the Executive; and
- (k) matters set out in the agenda for the meeting.

## **PRIVATE MEETINGS OF THE EXECUTIVE**

### **6.25 How are private meetings of the Executive convened?**

6.25.1 The Council must give at least 28 days' notice of its intention to hold a meeting of the Executive in private<sup>16</sup>.

6.25.2 The Council will:

- (a) publish a notice of a meeting to be held in private on the public notice board in the Town Hall and on the Council's website;
- (b) include in the notice the reasons why the meeting is to be held in private;
- (c) if compliance with the notice period set out in **section 6.24.1** is impracticable:
  - (i) the meeting may only be held in private with the permission of the chair of the Overview and Scrutiny Board, or if the chair is unavailable or unable to act, the Chair of the Council;
  - (ii) the chair of the Overview and Scrutiny Board (or the Chair of the Council, as appropriate) must be provided with a clear explanation for why the meeting must be held in private; and
  - (iii) the notice provisions in (a) and (b) above will apply; and
- (d) Where the report contains confidential information (as defined in the **Access to Information Procedure Rules**), the public must be excluded.

### **6.26 Who may attend private meetings of the Executive?**

#### **6.26.1 Attendance by Executive Members**

- (a) All Executive Members will be served notice of all private meetings of the Executive or its Committees, whether they are members of that Committee or not.
- (b) All Executive Members are entitled to attend a private meeting of any Executive Committee.

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<sup>16</sup> [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#)

#### 6.26.2 Attendance by Members

Members who are not Executive Members will not be entitled to attend private meetings of the Executive or its Committees without the prior agreement of the Mayor or the Chair.

#### 6.26.3 Attendance by Officers

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

#### **6.27 Who decides if a meeting will be held in public or in private?**

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

### **EXECUTIVE REPORTS**

#### **6.28 What information should Executive reports contain about consultation with stakeholders?**

All reports to the Executive from any Executive Member on proposals relating to the Budget and the Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Board or any Scrutiny Panel (as relevant), and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### **6.29 In whose name will Executive reports be issued?**

Reports to the Executive will normally appear in the name of the Executive Member and will incorporate advice from appropriate Officers. Exceptions will include a report from a Statutory Officer. The originator of a report will ensure that draft reports are the subject of consultation with the Chief Executive and any relevant **Corporate Directors** and Heads of Service, including in all cases the Chief Finance Officer and the Monitoring Officer.

### **KEY DECISIONS AND THE FORWARD WORK PROGRAMME**

#### **6.30 What are the notice requirements for a Key Decision?**

Subject to **Rule 21 (general exception)** and **Rule 22 (special urgency)**, a Key Decision may not be taken unless:

- (a) a notice (the “Forward Work Programme”) has been published in connection with the matter in question;
- (b) the Key Decision has been published 28 days before the decision is taken on the Council’s Forward Plan. Where such publication of intention to take a Key Decision is impractical, the chair of the Overview and Scrutiny Board must be informed.
- (c) at least five (5) days have elapsed since the publication of the Forward Plan; and
- (d) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with the Access to Information Procedure Rules.

### **6.31 When are Forward Plans published?**

The Mayor will prepare “Forward Plans” to cover a period of at least four months, beginning with the first day of any month. The Forward Plan is a live document and an updated version will be published when any new Forward Plan item is added.

### **6.32 What does the Forward Work Programme contain?**

6.32.1 The “Forward Work Programme” will contain matters which the Mayor believes will be the subject of a Key Decision of the Executive, its Committees, an individual Executive Member, Officers, or under a Joint Arrangement in the course of the discharge of an Executive Function during the period covered by the Forward Work Programme. It will contain the following details, in so far as the information is available or might reasonably be obtained:

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

6.32.2 The Forward Work Programme will also contain matters which are non-Key Decisions; however, there is no deadline for these decisions to be published on the Forward Plan.

6.32.3 Exempt information need not be included in the Forward Work Programme and confidential information should not be included.

**6.33 When can a Key Decision that has not been included in the Forward Work Programme still be made (the “general exception”)**

If a matter which is likely to be a Key Decision has not been included in the forward work programme, then subject to **section [ ] (special urgency)**, the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Work Programme;
- (b) the Proper Officer has informed the chair of the Overview and Scrutiny Board, or in their absence the chair of the relevant Scrutiny Panel, or if neither is available, each member of the Overview and Scrutiny Board or Scrutiny Panel (as appropriate) in writing of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five (5) days have elapsed since the Proper Officer complied with (a) and (b) above.

**6.34 When does “special urgency” apply in relation to a Key Decision?**

If the urgency with which a decision must be taken means that **Rule 21 (general exception)** cannot be followed, with the agreement of the chair of the Overview and Scrutiny Board or the chair of the relevant Scrutiny Panel (as appropriate) that the decision cannot be reasonably deferred. If there is no such chair or if the chair is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

## **EXECUTIVE ARRANGEMENTS**

**6.35 Which parts of the Constitution are Executive arrangements?**

The following sections of this Constitution are the Executive arrangements:

- (a) **Section 6** – The Mayor and the Executive (including the Executive Procedure Rules);
- (b) **Section 7** – Overview and Scrutiny (including the Overview and Scrutiny Procedure Rules);
- (c) **Section 10** – Joint Arrangements;
- (d) **Section 13** – Decision-Making;
- (e) **Section 16** – Access to Information Procedure Rules; and

- (f) The Scheme of Delegations.

## **EXECUTIVE SCHEME OF DELEGATION**

### **6.36 Which decisions are made by the Executive?**

#### **6.36.1 The Executive collectively**

The Executive will be responsible collectively for determining the following matters in respect of any and all functions that fall within the Executive terms of reference:

- (a) The delegation of authority to take Executive decisions when there are public meetings of the Executive, convened in accordance with the relevant legislation.
- (b) Proposals, which will be submitted to the Council as part of the annual Budget and Policy Framework, together with significant in-year departures from the Budget and Policy Framework.
- (c) New policies and procedures and changes to existing policies and procedures likely to have a significant impact on Service provision or the organisation of the Council.
- (d) The principles and funding of significant management restructuring involving more than one department.
- (e) Compulsory redundancies arising directly in connection with proposals falling into the 2 preceding categories.
- (f) Broad programme allocations together with proposals and overall expenditure levels, for projects with significant corporate implications, including those for which it is proposed to let a contract.
- (g) Any matters relating to bids for funding, which are financially or strategically significant and have not been provided for within the Budget and Policy Framework.
- (h) Council-wide strategic performance and financial management / monitoring together with associated action.
- (i) Strategic and significant decisions arising from Service reviews.
- (j) Key Decisions, not delegated to an Executive Committee, an Executive Member, an Officer or a Joint Arrangement.
- (k) Sensitive Council-wide matters which are not Key Decisions.
- (l) All reports referred to the Executive by the Overview and Scrutiny Board and its Scrutiny Panels.

- (m) Responsibility for issues relating to corporate risk management.
- (n) All issues that were previously considered by the Executive Committee – Grants to Voluntary Sector (which has been disbanded) including:
  - (i) Determining the criteria under which grants will be awarded from the Grants to Voluntary Sector budget.
  - (ii) Working within the existing frameworks and allocated resources, determining on an annual basis the allocation of grant aid from the Grants to Voluntary Sector budget.
  - (iii) Determining in-year changes to those allocations should it become necessary.
  - (iv) Monitoring and evaluating the use of grant aid once allocated.
  - (v) Subject to available resources within the Budget, determining in-year one-off applications for grant aid.
  - (vi) Considering and determining all issues relating to charities, which identify the Council as being “Trustee” and which are not specifically delegated to another body.
  - (vii) Considering and determining policy issues in relation to Grants, Trusts and the Voluntary and Community sector not specifically delegated to another body.
- (o) All issues previously considered by the Executive Committee for Standing Orders (which has been disbanded) including:
  - (i) Determining requests to waive standing orders, which fall within the remit of the Executive, relating to contracts. No exemptions can be used if EC procurement procedures apply.

#### 6.36.2 Individual Members

Individual Portfolio Holders will normally be responsible for the following matters in relation to the functions and Service areas within the scope of their Portfolio:

- (a) Major variations to existing policies and procedures.
- (b) Approval of departmental service plans.
- (c) Monitoring of Service performance information.
- (d) Portfolio Service reviews, including, improvement plans, external inspection, reviews and non-strategic corporate matters.
- (e) Policies, plans and strategies, which are not part of the financial and policy framework.



- (f) Key Decisions which are Portfolio specific.
- (g) Sensitive non-Key Decisions, which are Portfolio specific.
- (h) Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the Executive or as part of the Budget and Policy Framework.

#### 6.36.3 The Deputy Mayor

The Deputy Mayor has delegated powers to:

- (a) Appoint to outside bodies, made by the Executive or jointly with the Council.
- (b) Appoint to Executive Advisory Bodies (excluding membership to the full Executive)

#### 6.36.4 The Executive Sub-Committee for Property

When not referred to the Mayor, the Executive or an Executive Member to determine, the Executive Sub-Committee for Property is delegated the following powers:

- (a) Determining the Council's corporate property priorities.
- (b) Approving the allocation of resources from the Small Scheme Allocation budget.
- (c) To be consulted upon the capital programme.
- (d) Determining in-year changes to the new start investment programme and **small scheme allocation** projects should it become necessary.
- (e) Considering and determining the acquisition and disposal of assets (including land and buildings), other than equipment, plant and machinery for resale, in accordance with the requirements of Financial Regulations and Contract Procedure Rules.
- (f) To be consulted upon planning brief proposals.
- (g) Establishing effective communication channels to cascade the Council's corporate property priorities.

The Executive Sub-Committee for Property comprises all Executive Members.

#### **6.37 Which decisions are made by joint bodies?**

The Joint Archives Committee will exercise Executive Functions in accordance with the terms of the agreement currently in operation.

#### **6.38 Which Executive decisions are delegated to Officers?**

6.38.1 The Chief Executive

The Chief Executive, or any officer nominated by the Chief Executive as his deputy in this regard, will have delegated authority to make Executive decisions of a policy, financial and operational nature in response to the Covid-19 emergency.

6.38.2 Officers

Officers have the power to undertake, without reference to the Council, the Executive, or to any Committee, matters of day-to-day management and associated activities. Subject to the provisions within the Mayor's scheme of delegation above, Officers can take Executive non-Key Decisions. Unless specifically delegated by the Mayor and his Executive, Officers do not have delegated powers to take Key Decisions.

**EXECUTIVE PORTFOLIOS**

<b>Executive Portfolio</b>	<b>The Mayor</b>
<b>Portfolio Holder</b>	Andy Preston
<b>Lead Officer</b>	The Chief Executive
<b>SCOPE OF PORTFOLIO</b>	
<p>The Mayor has overall responsibility for delivering the Mayor's Priorities and associated initiatives.</p> <p><b>Service areas and Functions</b></p> <p>The Mayor has overall responsibility for Executive Functions, together with those general responsibilities detailed above. Service responsibilities have been delegated to the Executive Members.</p> <p>The Mayor is the first citizen of the town and will promote the town as a whole and act as a focal point for the community. He will also take precedence with regard to any civic duties but these may be delegated to the Chair/Vice-Chair of the Council.</p> <p>As the town's First Citizen, the Mayor promotes Middlesbrough in the sub-region, region and nationally.</p> <p><b>General responsibilities of the Mayor</b></p> <p>Duties and responsibilities of the Mayor include: -</p> <ul style="list-style-type: none"> <li>• Providing strong and visible leadership in relation to the Council, citizens, stakeholders and partners of the Council.</li> <li>• Leading on partnerships and strategic matters of significance to Middlesbrough on a local, sub-regional, regional and national basis.</li> <li>• Promoting, wherever possible, public engagement in the work of the Council.</li> <li>• Leading in promoting the core values and objectives of the Council.</li> <li>• Leading on promoting proposals in relation to the Council's Budget and Policy Framework.</li> <li>• Leading on the delivery of continuous improvement in Council services.</li> <li>• Promoting the highest standards of conduct and ethics within the Council.</li> <li>• Making appointments to the Executive, determining portfolios and chairing the Executive.</li> <li>• Determining the Executive Scheme of Delegation.</li> <li>• Responsibility for the Armed Forces Covenant.</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:mayor@middlesbrough.gov.uk">mayor@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Deputy Mayor and Executive Member for Children's Services</b>
<b>Portfolio Holder</b>	Councillor Mieke Smiles
<b>Lead Officer</b>	Executive Director for Children's Services
<b>SCOPE OF PORTFOLIO</b>	
<p>The Deputy Mayor and Executive Member for Children's Services will Chair meetings of the Executive and act in place of the Mayor, if for some reason the Mayor is unable to act.</p> <p>The Deputy Mayor and Executive Member for Children's Services will also act as the Statutory Lead Member for Children's Services in accordance with the Children Act 2004 and associated statutory guidance, ensuring that our children are protected, to safeguard their welfare and wherever possible, seek to enable or provide a safe environment that reduces dependency on services, including the most disadvantaged and vulnerable and their families and carers.</p> <p>The Deputy Mayor has responsibility for:</p> <ul style="list-style-type: none"> <li>• Children's Services <ul style="list-style-type: none"> <li>○ Early Years and Children's Centres</li> <li>○ Supporting Education Services</li> <li>○ Play and Youth Services</li> <li>○ Children's Social Care</li> </ul> </li> <li>• Marketing and Communications.</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:Mieka_Smiles@middlesbrough.gov.uk">Mieka_Smiles@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Executive Member for Adult Social Care and Public Health, Public Protection and Digital Inclusion</b>
<b>Portfolio Holder</b>	Councillor David Coupe
<b>Lead Officer</b>	Executive Director of Adult Social Care and Health Integration
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member for Adult Social Care and Public Health, Public Protection and Digital Inclusion in respect of part of the portfolio relating to Adult Social Care, Public Health and Public Protection has responsibility for ensuring vulnerable adults are protected, reducing health inequalities and pushing forward on the dementia-friendly agenda.</p> <p>In respect of the part of the portfolio for Digital Inclusion, the Executive Member has the responsibility of ensuring that the Council operates efficiently, and promotes the use and the benefits of the internet and digital technologies.</p> <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Adults with Social Care needs</li> <li>• Public Health</li> <li>• Public Protection</li> <li>• Welfare Reform</li> <li>• Digital Inclusion</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:David.Coupe@middlesbrough.gov.uk">David.Coupe@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Executive Member for Culture and Communities</b>
<b>Portfolio Holder</b>	Councillor Stephen Hill
<b>Lead Officer</b>	Director of Regeneration and Culture
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member for Culture and Communities, has responsibility for strengthening the town's cultural sector and promoting arts and culture throughout the town, in accordance with the Mayor's Priorities</p> <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Community Development and Resilience</li> <li>• Voluntary and Community Sector</li> <li>• Equalities</li> <li>• Arts, Culture and Heritage</li> <li>• Libraries</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:Barrie_Cooper@middlesbrough.gov.uk">Barrie_Cooper@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Executive Member for Finance and Governance</b>
<b>Portfolio Holder</b>	Councillor Stefan Walker
<b>Lead Officer</b>	Director of Finance / Director of Legal and Governance Services
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member for Finance and Governance has the responsibility of ensuring that the Council operates efficiently, openly and fairly. The Executive Member for Finance and Governance has oversight of budgetary issues.</p> <p>Finance:</p> <ul style="list-style-type: none"> <li>• Finance, Property, Revenues &amp; Benefits and Pensions</li> <li>• Performance, Contract Management and Risk Management</li> <li>• Procurement</li> </ul> <p>Governance:</p> <ul style="list-style-type: none"> <li>• Democratic Services, Registrars and Electoral Registration</li> <li>• Human Resources</li> <li>• ICT</li> <li>• Information Strategy</li> <li>• Legal</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:stefan_walker@middlesbrough.gov.uk">stefan_walker@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Executive Member for Neighbourhood Safety</b>
<b>Portfolio Holder</b>	Councillor Tony Grainge
<b>Lead Officer</b>	Director of Environment and Community Services
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member for Neighbourhood Safety will have responsibility for coordinating council responses to ASB and crime, spearheading work to improve the interaction with the police to support the police in their duty to prevent crime and the fear of crime, liaison with wardens and other departments. The portfolio holder will explore new ways to make residents feel safe and report incidents.</p> <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Community Cohesion</li> <li>• Environmental Enforcement</li> <li>• Neighbourhood Safety</li> <li>• Prevention of Youth Re-offending</li> <li>• Street Wardens</li> <li>•</li> </ul> <p>The portfolio holder will also take responsibility for making sure that communities maintain and grow a sense of neighbourliness and that residential and business property owners who bring an area down by neglect are appropriately challenged and pushed to improve.</p> <p>The Executive Member will work in conjunction with the Deputy Mayor and Executive Member for Children's Services and will also take responsibility for making sure that the council engages with young adults and all groups, encouraging increased levels of democratic engagement.</p> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:tony_grainge@middlesbrough.gov.uk">tony_grainge@middlesbrough.gov.uk</a></p>	



<b>Executive Portfolio</b>	<b>Executive Member for Regeneration</b>
<b>Portfolio Holder</b>	Councillor Eric Polano
<b>Lead Officer</b>	Director of Regeneration and Culture
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member for Regeneration will have responsibility for delivering the Mayor's Priorities with regard to ensuring a fair access to high-quality homes, fair access to secure, well-paid jobs and meaningful training, strengthening and diversifying our local economy, and strengthening our transport links.</p> <p>The Executive Member for Regeneration will be responsible for Council policy on:</p> <ul style="list-style-type: none"> <li>• Transportation</li> <li>• Inward investment</li> <li>• Economic development</li> <li>• Housing development</li> <li>• Planning and Building Control</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:Eric_Polano@middlesbrough.gov.uk">Eric_Polano@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Executive Member for Young Adults and Democratic Engagement</b>
<b>Portfolio Holder</b>	Councillor Luke Mason
<b>Lead Officer</b>	Director of Legal and Governance Services and Executive Director for Children's Services
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member will take responsibility for making sure Middlesbrough offers the careers, opportunities and amenities to ensure that young adults (16-25 years old) are able to thrive and to encourage other young people to relocate to the town.</p> <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Democratic Engagement and Promotion of Democracy</li> <li>• Supporting Young People into Employment</li> <li>• Young Adults and Community Learning</li> <li>• Youth Parliament</li> </ul> <p>The Executive Member will work in conjunction with the Deputy Mayor and Executive Member for Children's Services and will also take responsibility for making sure that the council engages with young adults and all groups, encouraging increased levels of democratic engagement.</p> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:luke_mason@middlesbrough.gov.uk">luke_mason@middlesbrough.gov.uk</a></p>	

<b>Executive Portfolio</b>	<b>Executive Member for Environment</b>
<b>Portfolio Holder</b>	Councillor Barrie Cooper
<b>Lead Officer</b>	Director of Regeneration and Culture / Director of Environment and Community Services
<b>SCOPE OF PORTFOLIO</b>	
<p>The Executive Member for Environment has responsibility for ensuring a safer environment for Middlesbrough – ensuring Middlesbrough is cleaner and more resilient to a changing climate.</p> <p>Responsible for:</p> <ul style="list-style-type: none"> <li>• Environmental Sustainability</li> <li>• Refuse, Waste Reduction and Recycling</li> <li>• Roads and Highways</li> <li>• Parks, Open Spaces and Cemeteries</li> </ul> <p><b>Correspondence address:</b>  c/o Democratic Services  Town Hall  Middlesbrough  TS1 9FX</p> <p>Email: <a href="mailto:mayor@middlesbrough.gov.uk">mayor@middlesbrough.gov.uk</a></p>	

## **Section 7 – Overview and Scrutiny<sup>17</sup>**

This section explains the functions of the Overview and Scrutiny Board, which provides oversight of the Council's and the Executive's decision-making.

### **7.1 What is scrutiny?**

- 7.1.1 The Council is required by law to discharge certain scrutiny functions. These functions are an essential component of local democracy. Scrutiny committees should be powerful committees that can contribute to the development of Council policies and hold the Executive to account for its decisions. Scrutiny committees should also review existing policies, consider proposals for new policies, and recommend new policies.
- 7.1.2 Scrutiny should be carried out in a constructive way and should contribute to the delivery of efficient and effective services that meet the needs and aspirations of local citizens. Scrutiny committees should not shy away from challenging and questioning decisions and making constructive criticism.

### **7.2 What is the role of scrutiny?**

- 7.2.1 In order to achieve the objectives set out in section 7.1, the Council has appointed an Overview and Scrutiny Board, which will be responsible for:
- (a) reporting annually to Full Council on the workings of the scrutiny process;
  - (b) review and scrutiny of decisions made, or actions taken, in connection with the discharge of any of the Council's functions whether by the Executive or another part of the Council;
  - (c) making reports or recommendations to the Council or the Executive in connection with the discharge of any Executive Function;
  - (d) considering any matter which affects the Borough or its citizens;
  - (e) exercising the right to call-in for reconsideration decisions made but not yet implemented by the Executive and Officers;
  - (f) assisting in conducting reviews of the Strategic Plan and Balanced Score Card process; and
  - (g) responding to Executive consultation requests.

#### **7.2.2 Finance**

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

#### **7.2.3 Officers**

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<sup>17</sup> [Local Government Act 2000](#)

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

### **7.3 What are the specific functions of the Overview and Scrutiny Board?**

#### **7.3.1 Policy Development and Review**

The Overview and Scrutiny Board may:

- (a) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- (b) conduct research, including community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question Executive Members, Committees and appropriate Chief Officers or other Officers (after consultation with the relevant Chief Officer) about the detail of the facts of an issue or proposal affecting the Borough;
- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (f) consider the impact of policies to assess if they have made a difference.

#### **7.3.2 Scrutiny of Performance and Service Delivery matters**

The Overview and Scrutiny Board may:

- (a) review and scrutinise decisions made by, and performance of, the Executive, Committees and Officers, both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular Services;
- (h) question Executive Members, Committees and appropriate Chief Officers or other Officers (after consultation with the relevant Chief Officer) about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (i) make recommendations to the Executive and/or the Council arising from the outcome of the scrutiny process;
- (j) review and scrutinise the performance of other public bodies in the Borough that have responsibilities for services to, and the health and well-being of, the community, and invite reports from them by requesting them to address the

Overview and Scrutiny Board and local people about their activities and performance; and

- (k) in furtherance of any of the above, question and gather evidence from any person (with their consent).

### 7.3.3 Health

In relation to scrutiny of health-related matters, the Overview & Scrutiny Board may:

- (a) advise the Council on arrangements for undertaking health scrutiny jointly with other authorities, particularly in respect of regional and specialist services, or where NHS bodies do not have coterminous boundaries with the Council;
- (b) advise the Council on protocols for how any joint health scrutiny arrangements might operate;
- (c) require an officer of a local NHS body to attend to answer questions about matters under review; and
- (b) make reports and/or recommendations to local NHS bodies and to the local authority.

The Council confers its powers of review and Scrutiny, including the power of referral to the Secretary of State for Health to the Health Scrutiny Panel<sup>18</sup>.

### 7.3.4 Finance

The role of the Overview and Scrutiny Board in respect of developing the Budget is set out in **section [ ]**.

### 7.3.5 Audit

The Overview and Scrutiny Board will monitor compliance with audit and external inspectorate reports following their consideration and adoption by the Executive and the Council.

### 7.3.6 Annual report

The Overview and Scrutiny Board must report annually to Full Council on their workings with recommendations for their future work programme and amended working methods, if appropriate.

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

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

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<sup>18</sup> [The Local Authority \(Public Health, Health and Wellbeing Boards and Health Scrutiny\) Regulations 2013, section 21](#)

## **7.5 What are Scrutiny Panels?**

- 7.5.1 In order to assist with discharging its scrutiny function, the Overview and Scrutiny Board also has sub-committees, called Scrutiny Panels. These are responsible for scrutiny of specific topics. The Overview and Scrutiny Board can also appoint ad hoc Scrutiny Panels to scrutinise a particular piece of work, for example, in relation to the review and development of the Policy Framework.
- 7.5.2 The functions outlined in **section 7.3** shall apply equally to Scrutiny Panels, as appropriate.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

These Overview and Scrutiny Procedure Rules set out the rules of procedure and debate that apply to the Overview and Scrutiny Board and Scrutiny Panels.

## **OVERVIEW AND SCRUTINY ARRANGEMENTS**

### **7.6 What are the arrangements for the Overview and Scrutiny Board and Scrutiny Panels?**

- 7.6.1 The Council will have an Overview and Scrutiny Board and Scrutiny Panels as set out in **section [ ]** and will appoint to them as it considers appropriate from time to time.
- 7.6.2 The Overview and Scrutiny Board may, in addition to the standing Scrutiny Panels appointed by the Council at its Annual Meeting, appoint sub-committees on an ad hoc basis. The Council or the Overview and Scrutiny Board may also appoint additional Scrutiny Panels to undertake specific review. These Scrutiny Panels may be appointed for a fixed period on the expiry of which they shall cease to exist.
- 7.6.3 Church and parent governor representatives will be appointed to the Overview and Scrutiny Board, and to the Scrutiny Panel whose remit includes responsibility for the scrutiny of education. They will also be invited to attend any other Scrutiny Panel considering education and related matters. Such representatives will have the right to participate in any meeting that considers education and related matters and shall be entitled to vote on any question:
- (a) which relates to any education functions which are the responsibility of the Executive; and
  - (b) which falls to be considered at the meeting.

### **7.7 What are the terms of reference for the Overview and Scrutiny Board?**

- 7.7.1 The terms of reference for the Overview and Scrutiny Board shall include:
- (a) the performance of all overview and scrutiny functions on behalf of the Council;

- (b) the appointment of such sub-committees as it considers appropriate to fulfil specific overview and scrutiny functions which, for the purpose of the scrutiny of health, might include Joint Arrangements as detailed in **Article 11**;
- (c) approving an annual overview and scrutiny work programme, including the programme of any Scrutiny Panel appointed so as to ensure that the Overview and Scrutiny Board's and Scrutiny Panels' time is effectively and efficiently utilised;
- (d) where matters fall within the remit of more than one Scrutiny Panel, determining which of those Scrutiny Panels will assume responsibility for any particular issue, or if it so decides, to undertake the scrutiny itself;
- (e) putting in place a system to ensure that referrals from the Overview and Scrutiny Board or a Scrutiny Panel to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;
- (f) at the request of the Executive, making decisions about the priority of referrals if reports to the Executive exceed the limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business, or jeopardises the efficient running of Council business.

7.7.2 Where a matter overlaps between more than one Scrutiny Panel, the Overview and Scrutiny Board will decide which Scrutiny Panel will consider the matter.

## **7.8 Who can be a member of the Overview and Scrutiny Board or a Scrutiny Panel?**

7.8.1 Executive Members may not be members of the Overview and Scrutiny Board or of a Scrutiny Panel.

7.8.2 No Member may be involved in scrutinising a decision in which they have been directly involved.

## **MEETINGS**

### **7.9 When are Overview and Scrutiny Board meetings held?**

The Overview and Scrutiny Board and Scrutiny Panels will meet at regular intervals. Extraordinary meetings may be called as and when considered appropriate by:

- (a) the chair of the Overview and Scrutiny Board or the relevant Scrutiny Panel;
- (b) any five (5) Members (including voting **Co-Opted Members**) of the Overview and Scrutiny Board or the relevant Scrutiny Panel; or
- (c) the Proper Officer.

### **7.10 What is the quorum for the Overview and Scrutiny Board and Scrutiny Panel meetings?**



The quorum for Overview and Scrutiny Board and Scrutiny Panel meetings is the greater of three (3) and one quarter of the whole membership (including, in respect of education matters, **Co-Opted Members**).

## **MATTERS TO BE CONSIDERED BY OVERVIEW AND SCRUTINY**

### **7.11 How is the Overview and Scrutiny Board work programme set?**

The Overview and Scrutiny Board is responsible for setting its own work programme, and that of the Scrutiny Panels. In setting the work programme, the Overview and Scrutiny Board shall take into account the wishes of members of all political parties represented in its membership.

### **7.12 How are items added to the Overview and Scrutiny Board and Scrutiny Panel meeting agendas?**

Any member of the Overview and Scrutiny Board or a Scrutiny Panel shall be entitled to submit relevant items to the Proper Officer for inclusion on the agenda for the next available meeting.

### **7.13 What is the role of Overview and Scrutiny in policy review and development?**

7.13.1 The role of the Overview and Scrutiny Board in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in **section [ ]**.

7.13.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview and Scrutiny Board may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.

7.13.3 The Overview and Scrutiny Board and Scrutiny Panels may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

### **7.14 What is the process for consideration of Overview and Scrutiny reports to the Executive?**

7.14.1 All formal reports from the Overview and Scrutiny Board will be submitted to the Proper Officer and added to the agenda for the next meeting of the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

7.14.2 The Council or the Executive shall consider the report of the Overview and Scrutiny Board at their next available meeting – usually within eight weeks of it being added to

the agenda. If it is not considered by the Executive within that time, the Proper Officer will call a meeting of the Council to consider the report and make recommendations to the Executive.

## **INFORMATION AVAILABLE TO OVERVIEW AND SCRUTINY**

### **7.15 To what documents do members of the Overview and Scrutiny Board and Scrutiny Panels have access?**

- 7.15.1 In addition to their rights as Councillors, members of the Overview and Scrutiny Board and Scrutiny Panels have additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in **section [ ]** of this Constitution.
- 7.15.2 Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Board and Scrutiny Panels, as appropriate, depending on the particular matter under consideration.

### **7.16 When and how can Members and Officers be called to give account?**

- 7.16.1 The Overview and Scrutiny Board and Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the Overview and Scrutiny role, they may require the Mayor, any Executive Member, the Head of Paid Service, any Chief Officer, and/or, after consultation with the relevant Chief Officer, another Senior Officer, to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance,

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

- 7.16.2 For the purposes of **section 7.16.1**, "Senior Officer" includes any Chief Officer, their deputy and other appropriate Officer holding a senior position. Where there are concerns about the appropriateness of the Officer who should attend, the relevant Chief Officer shall discuss this with the chair or the vice chair of the Overview and Scrutiny Board or the relevant Scrutiny Panel with a view to achieving consensus.
- 7.16.3 Where any Member or Officer is required to attend any Overview and Scrutiny Board or Scrutiny Panel meeting under this provision, the chair of that meeting will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing, giving at least five (5) working days' notice of the meeting at which they are required to attend. Any notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the meeting.
- 7.16.4 Where the account to be given to the Overview and Scrutiny Board or a Scrutiny Panel will require the production of a report, the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- 7.16.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Overview and Scrutiny Board or Scrutiny Panel shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

#### **7.17 When may others attend Overview and Scrutiny meetings?**

- 7.17.1 The Overview and Scrutiny Board or a Scrutiny Panel may invite people other than those people referred to in **paragraph 7.23** above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.
- 7.17.2 The Overview and Scrutiny Board or a Scrutiny Panel can require an officer of a local NHS body to attend to answer questions about any health scrutiny matter that is under review<sup>19</sup>.

### **PARTY WHIP**

#### **7.18 What happens if a member of the Overview and Scrutiny Board or a Scrutiny Panel is subject to a party whip?**

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

### **HEALTH SCRUTINY**

#### **7.19 What are the arrangements for scrutiny of health matters?**

Any Scrutiny Panel established to review and scrutinise health services shall operate within the Overview and Scrutiny Procedure Rules set out in this **section 8**, and the following additional rules shall apply:

- (a) In carrying out a review or scrutiny, the Scrutiny Panel shall:
  - (i) have regard to regulations and guidance on health scrutiny matters that have been issued by the Secretary of State;
  - (ii) invite interested parties to comment on matters under review; and
  - (iii) take account of any relevant information available, including any relevant information provided by a patients' forum
- (b) Reports or recommendations from the Scrutiny Panel shall include:
  - (i) an explanation of the matters reviewed or scrutinised;

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<sup>19</sup> [Health and Social Care Act 2001](#) and [Local Government and Public Involvement in Health Act 2007](#)

- (ii) a summary of the evidence considered;
  - (iii) a list of the participants involved in the review;
  - (iv) any recommendations on the matter reviewed or scrutinised
- (c) When the panel is responding to a consultation from a local NHS body about proposals for substantial developments or variations in services, it shall do so by the date specified by the NHS body.

## **CALL-IN PROCEDURE**

### **7.20 What is Call-In?**

7.20.1 Legislation<sup>20</sup> provides that Executive decisions which have been made but not yet implemented may be “called in” for consideration by a local authority’s scrutiny function. This includes decisions made by the Executive (collective or individual) and Key Decisions which have been delegated to Chief Officers.

7.20.2 The Overview and Scrutiny Board has responsibility for Call-In.

### **7.21 Which decisions can be Called-In?**

The following decisions may be Called-In:

- (a) a decision taken collectively by the Mayor and the Executive;
- (b) a decision taken by the Mayor or an individual Executive Member; and
- (c) a Key Decision taken by an Officer under delegated powers.

### **7.22 Which decisions cannot be Called-In?**

The following decisions may not be Called-In:

- (a) a decision to which 7.21 (a)-(c) do not apply;
- (b) a decision that has been Called-In previously;
- (c) a decision relates to a policy or Budget matter which requires the approval of Full Council; or
- (d) a decision that has been implemented following a recommendation from the Overview and Scrutiny Board and/or a Scrutiny Panel.

### **7.23 When can Call-In be triggered?**

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<sup>20</sup> [Local Government Act 2000, section 9F](#) and [Localism Act 2011, Schedule 2](#)

- 7.23.1 Decisions in relation to Executive Functions must be published within two (2) working days of the decision being made. All Members will be sent an electronic notice of all such decisions. A record of these decisions will also be published on the Council's website.
- 7.23.2 The notice of the decision will specify the date on which the decision was made and will specify that the decision will come into force (and may be implemented) on the fifth working day after the publication of the decision.
- 7.23.3 During that five (5) working day period, any five Members (including voting Co-opted Members in respect of education matters) may request that the Monitoring Officer Calls-In the decision for scrutiny by the Overview and Scrutiny Board.
- 7.23.4 Decisions may be implemented from the sixth working day following their publication unless a valid Call-In has been received by the Monitoring Officer.
- 7.23.5 Call-In should only be used in exceptional circumstances when Members believe that it is a proportionate step to benefit the delivery of Services under the Budget and Policy Framework or will improve the decision-making process.

## **7.24 What is the process for Calling-In a decision?**

### **7.24.1 Notice of Call-In of Decision**

A duly completed "Notice of Call-In of Decision" must be submitted to Democratic Services by 4.00pm on the fifth working day after publication of the relevant decision. The notice must contain the signatures of the five (5) non-Executive Members Calling-In the decision along with the reasons for the Call-In. Members who have a prejudicial interest in the decision may not sign a Call-In Form.

### **7.24.2 Validity of Call-In**

- 7.24.3 The Monitoring Officer will, in consultation with the chair of the Overview and Scrutiny Board, determine the validity of the Call-In as soon as possible following receipt by them of **the Notice of Call-In of Decision**. The Monitoring Officer may reject a Call-In if, in their opinion, it does not meet the requirements for Call-In or is vexatious, frivolous, or otherwise inappropriate.

### **7.24.4 Meeting to consider Call-In**

- (a) Democratic Services will notify the decision-maker and all Members that the decision has been Called-In and will call a meeting of the Overview and Scrutiny Board on such date as they may determine, where possible in consultation with the chair of the Overview and Scrutiny Board, and in any event no sooner than 10 working days from the date of the Notice of Call-In of Decision.
- (b) The signatories to the Notice of Call-In of Decision will normally be expected to attend the Overview and Scrutiny Board meeting to explain the reasons for the Call-In.

## **7.25 Does Call-In apply to urgent decisions?**

7.25.1 Urgent decisions may proceed despite a Call-In if the decision-maker has the agreement of:

- (a) the chair of the Overview and Scrutiny Board;
- (b) in the absence of the chair of the Overview and Scrutiny Board, the Chair of the Council; or
- (c) in the absence of the Chair, the Vice Chair of the Council.

7.25.2 In exceptional circumstances there may be urgent decisions that must be implemented immediately upon the decision being taken and a Call-In is therefore not possible. These must be identified by the Mayor, the Executive, or the relevant decision-maker at the time the decision is taken and the reasons behind their urgency should be explained and reported in the record of decision.

7.25.3 Decisions taken as a matter of urgency must be reported quarterly to the Council by the chair of the Overview and Scrutiny Board, together with the reasons for their urgency.

## **7.26 When can Members and Officers be called to account in relation to Call-In?**

7.26.1 A Member or Officer may only be called to account in relation to Call-In with the permission of the chair of the Overview and Scrutiny Board. Permission must be requested at least five (5) working days before the date of the relevant meeting. In exceptional circumstances, the chair of the Overview and Scrutiny Board may permit a shorter notice period of three (3) days. The person calling a Member or Officer to account must explain the relevance of the witness to the Call-In.

7.26.2 The Overview and Scrutiny Board may also call Members and Officers to give account.

7.26.3 Members called to attend a meeting relating to Call-In should consider their duty to declare an interest and make such a declaration if appropriate.

7.26.4 Members and Officers called to account in relation to Call-In may only provide factual information.

7.26.5 Sections 7.16 (When and how can Members and Officers be called to give account?) and 7.17 (When can others be called to Overview and Scrutiny meetings?) apply to Members and Officers called to attend meetings relating to Call-In.

## **7.27 What happens at a Call-In meeting?**

7.27.1 Scrutiny of a Called-In decision

- (a) At a meeting to consider the Call-In of a decision, the Overview and Scrutiny Board will exercise its powers to scrutinise the decision that has been Called-In.

- (b) Every effort will be made to deal with the Call-In in a single meeting. However, in exceptional circumstances, the meeting may be adjourned so that additional information can be obtained and/or (with the consent of the chair of the meeting or the relevant Executive Member) additional Members or Officers can be called to account.
- (c) If the meeting is adjourned as set out in section 7.27.1 above, the Called-In decision will be held in abeyance until the meeting is reconvened. If the reconvened meeting is not held on the date set at the time of the adjournment, the decision will take immediate effect on that date.

#### **7.27.2 Referral back to the decision-maker**

- (a) The Overview and Scrutiny Board may refer a decision back to the decision-maker with recommendations. The decision-maker will have 10 working days to decide whether to amend the decision.
- (b) If the Overview and Scrutiny Board's recommendations are not accepted in full, the decision-maker should inform the Overview and Scrutiny Board and give reasons for rejecting its recommendations.
- (c) Following rejection of its recommendations, the Overview and Scrutiny Board has 17 working days to meet and refer the decision back to the decision-maker. If no such referral is made, the decision will take effect on the earlier of the date on which the Overview and Scrutiny Board meets and the expiry of the 17 working day period.

#### **7.27.3 No case to answer**

If the Overview and Scrutiny Board decides at a meeting to consider the Call-In of a decision that the decision should not be referred back to the decision-maker for reconsideration, the Monitoring Officer will advise the Mayor, the Chief Executive and (if appropriate) the delegated decision taker, that the decision may be implemented.

#### **7.27.4 Confirmation of original decision**

If the decision-maker confirms the original decision, the decision may be implemented immediately and may not be subject to a further Call-In. The decision-maker should demonstrate that appropriate consideration has been given to the Overview and Scrutiny Board's recommendations.

### **7.28 How are decisions that are contrary to the Budget and Policy Framework Called-In?**

- 7.28.1 Where the Overview and Scrutiny Board or a Scrutiny Panel is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, then it shall seek advice from the Monitoring Officer and/or the Chief Finance Officer.

- 7.28.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's and/or Chief Finance Officer's report(s) shall be presented to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report:
- (a) if the Monitoring Officer and/or the Chief Finance Officer decide that the decision is contrary to the Policy Framework, or contrary or not wholly in accordance with the Budget, to the Council; or
  - (b) if the Monitoring Officer and/or Chief Finance Officer decide that the decision is not so contrary, to the Overview and Scrutiny Board.
- 7.28.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Board or Scrutiny Panel may refer the matter to Council.
- 7.28.4 In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Overview and Scrutiny Board. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (a) endorse a decision or proposal of the Executive decision taker as falling within the existing Budget and Policy Framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (b) amend the Council's Financial Procedure Rules or any relevant policy to reflect the decision or proposal of the body or individual responsible for that Executive Function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (c) where the Council accepts that the decision or proposal is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, and does not amend the existing Policy Framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or the Chief Finance Officer.

Councillor Calls for Action

To consider Councillor Calls for Action.





## **Section 8 – Standards**

This section explains the functions of the Standards Committee and how Councillors are held to account through the Members' Code of Conduct.

### **8.1 What is Standards?**

The Council has adopted a Members' Code of Conduct to which all Councillors are required to adhere. The Standards Committee is responsible for deciding on alleged breaches of the Members' Code of Conduct and any applicable sanctions, as well as advising on standards issues more generally.

### **8.2 Who sits on the Standards Committee?**

- 8.2.1 There are nine (9) Councillors and **two (2) Parish Council Members** on the Standards Committee. The makeup of the Standards Committee must be politically balanced (i.e. a proportional number of members representing each political group in the Council). The Mayor may not be a member of the Standards Committee.
- 8.2.2 The chair of the Standards Committee is elected each year at the Annual Meeting of Full Council. The Standards Committee chair may not be an Executive Member.
- 8.2.3 If the position of chair of the Standards Committee is vacant, a new chair will be elected at the next Council meeting.

### **8.3 What is the role of the Standards Committee?**

- 8.3.1 The Standards Committee is responsible for ensuring individual oversight of key issues that relate to ethics in Local Government.
- 8.3.2 The Standards Committee is also responsible for:
  - (a) promoting and maintaining high standards of conduct by Members and the Member;
  - (b) assisting Members and the Mayor to observe the Members' Code of Conduct;
  - (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
  - (d) monitoring the operation of the Members' Code of Conduct;
  - (e) advising, training or arranging to train Members and the Mayor on matters relating to the Members' Code of Conduct;
  - (f) considering reports relating to the conduct of Members which may be referred to it by the Council or Chief Officers, including issues relating to Members' interests and the maintenance and management of any relevant registers of interests;

- (g) considering relevant reports referred by the Monitoring Officer and the Chief Finance Officer and making recommendations thereon to the Council as necessary;
- (h) granting dispensations to Members and/or the Mayor from the requirements relating to declarations of interest<sup>21</sup>. The Monitoring Officer may grant a dispensation where the matter is urgent and report it to the next available Standards Committee;
- (i) determining, after due investigation, allegations of breaches of the Members' Code of Conduct and the imposing of any relevant sanctions;
- (j) receiving references from the Council's Governance and Audit Committee regarding issues of attendance by Members at training on the Code of Conduct; and
- (k) discharging the above functions in relation to Parish Councils.

## **STANDARDS PROCEDURE RULES**

In these Standards Procedure Rules, capitalised terms not otherwise defined in this Constitution shall have the meanings set out below:

"Complainant"	the person making a complaint about a Subject Member to the Standards Committee;
"Communications Plan"	
"Independent Person"	The independent person appointed by the Council to provide their views on any Standards complaint <sup>22</sup> ;
"Investigating Officer"	the Officer responsible for investigating a complaint made about a Member;
"Subject Member"	a Member who is the subject of a complaint to the Standards Committee;

### **8.4 What are the rules of procedure for Standards Committee hearings?**

- 8.4.1 These procedure rules shall apply to the Standards Committee when considering the Investigating Officer's report under these arrangements.

### **8.5 What is the composition of the Standards Committee?**

- 8.5.1 The Standards Committee comprises nine (9) Members and, if required, two (2) Parish Councillors.

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<sup>21</sup> [Localism Act 2011, section 32](#)

<sup>22</sup> [Localism Act 2011, section 28](#)

8.5.2 The quorum for a meeting of the Standards Committee is three (3).

## **8.6 What is the purpose of a Standards Committee hearing**

8.6.1 The purpose of the hearing is for the Standards Committee to consider, on the evidence provided, whether the Subject Member has breached the Members' Code of Conduct. The conduct of others, for example Officers, is dealt with through another process.

8.6.2 The Independent Person will be invited to attend and participate in the Standards Committee meeting but will not have voting rights.

## **8.7 How and when are Standards Committee hearings convened?**

8.7.1 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Standards Committee. The hearing will be held in public no earlier than 14 working days and no later than 28 working days after the Monitoring Officer has copied the Investigating Officer's final report to the Complainant and the Subject Member. Members of the public and press will be excluded from meetings of the Standards Committee where it is likely that confidential or exempt information will be disclosed<sup>23</sup>.

8.7.2 The Monitoring Officer, in consultation with the chair of the Standards Committee, will convene a meeting of the Standards Committee.

8.7.3 If the Subject Member is unavailable for the proposed date of the meeting, the Monitoring Officer, in consultation with the chair of the Standards Committee, will determine whether the meeting can be arranged outside of the prescribed timescale. If a meeting cannot be arranged within the prescribed timescale, the Subject Member may be requested to provide a reasonable explanation to the chair of the Standards Committee, along with any appropriate evidence of their unavailability.

8.7.4 Where the Subject Member fails to attend the Standards Committee meeting and where the Standards Committee is not satisfied with their explanation for their absence from the hearing, the Standards Committee may, having regard to any written representations submitted by the Subject Member, and/or the Investigating Officer's report resolve to proceed with the hearing in the Subject Member's absence and make a determination. Alternatively, if the Standards Committee is satisfied with the Subject Member's reasons for not attending the hearing, it may adjourn the hearing to another date. The Standards Committee may resolve, in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously. Standards Committee hearings shall only be adjourned once, if the Subject Member fails to attend a second scheduled meeting without exceptional circumstances, the meeting shall proceed in the Subject Member's absence.

## **8.8 How are matters decided at a Standards Committee hearing?**

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<sup>23</sup> [Local Government Act 1972, Schedule 12A](#)

- 8.8.1 All matters/issues before the Standards Committee will be decided by a simple majority of votes cast, with the Chair having a second or casting vote.

Who may accompany/represent a Subject Member at a Standards Committee hearing?  
The Subject Member may choose to be accompanied by and/or represented at a Standards Committee meeting by a fellow Councillor, friend or colleague. The Subject Member will not be entitled to be represented by a solicitor or other legal representative, or by any Officer.

## **8.9 What is the order of business for a Standards Committee hearing?**

- 8.9.1 Subject to **section 8.9.2** below, the order of business of a Standards Committee hearing will be as follows:

- (a) apologies for absence;
- (b) declarations of interests;
- (c) approval of minutes of the previous meeting;
- (d) if the Subject Member is absent, consideration of whether to adjourn or to proceed with the hearing (refer to **section 8.7.4** above);
- (e) introduction by the chair, of members of the Standards Committee, the Independent Person, Monitoring Officer, Investigating Officer, Democratic Services Officer, the Council's legal adviser, Complainant and the Subject Member and their representative (if one is present);
- (f) receipt of representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public / press;
- (g) determination of whether the public / press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public / press. When the public / press are excluded from any part of the meeting, filming, photography and/or audio recordings of the meeting will be prohibited in accordance with **section [ ]** of this Constitution; and
- (h) consideration of the report of the Investigating Officer and determination of the matter.

- 8.9.2 The chair of the Standards Committee may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

- 8.9.3 The Standards Committee may adjourn the hearing at any time.

- 8.9.4 Witnesses

- (a) The process of the hearing is inquisitorial, and not adversarial. Witnesses should not be made to feel uncomfortable or that their integrity is being questioned. The purpose of the hearing is to establish the facts.
- (b) All questions to witnesses should be made through the chair of the Standards Committee.

8.9.5 Presentation of the complaint

- (a) The Investigating Officer will present their report to the hearing, including any documentary evidence or other material, and call their witnesses. No new points will be permitted.
- (b) The Subject Member or their representative may question the Investigating Officer, and any witnesses called by the Investigating Officer.
- (c) The Standards Committee may question the Investigating Officer, the Independent Person, the Advisory Officer, and any witnesses called by the Investigating Officer, on the content of their report.

8.9.6 Presentation of the Subject Member's response:

- (a) The Subject Member, or their representative, will present their response to the Investigating Officer's report to the hearing, and call their witnesses.
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.
- (c) The Standards Committee may question the Subject Member, the Independent Person, the Advisory Officer, and any witnesses called by the Subject Member.

8.9.7 Summing up:

- (a) The Investigating Officer will sum up their report.
- (b) The Subject Member or their representative will sum up their response to the Investigating Officer's report.

8.9.8 Deliberations and decisions of the Standards Committee:

- (a) Having heard the representations / views of all parties, the Standards Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal adviser) to consider whether, on the facts found, the Subject Member has failed to comply with the Members' Code of Conduct, and if so, what sanctions should be applied.
- (b) Before reaching a decision, the Standards Committee will consider the views expressed by the Independent Person, including any views on sanctions to be applied and/or recommendations to the Council or Parish Council or Monitoring Officer.

- (c) Where the complaint has a number of aspects, the Standards Committee may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (d) The Standards Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.
- (e) The Standards Committee may at any time come out of private session and reconvene the hearing in public to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information, to assist the Committee cannot be presented, then the Committee may adjourn the hearing and issue directions as to the additional evidence required and from whom.
- (f) If evidence presented to the Standards Committee highlights other potential breaches of the Council's or Parish Council's (if appropriate) Members' Code of Conduct, then the chair will outline the Standards Committee's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.
- (g) Having deliberated on its decision and/or recommendations and the application of any sanctions, the Standards Committee will reconvene the hearing in public and the chair of the Standards Committee will announce:
  - (i) the Standards Committee decision as to whether or not the Subject Member has failed to comply with the relevant Members' Code of Conduct, detailing the breaches, and the principal reasons for the decision;
  - (ii) the sanctions (if any) to be applied;
  - (iii) the recommendations (if any) to be made to the Council or Parish Council (as appropriate) and/or Monitoring Officer; and
  - (iv) that there is no right of appeal against the Standards Committee decision and/or recommendations.

## **8.10 What are the possible sanctions the Standards Committee can determine?**

- 8.10.1 Subject to **section 8.10.4** below, where the Standards Committee determines that the Subject Member has failed to comply with the relevant Members' Code of Conduct, any one or more of the sanctions below, or any further sanctions deemed appropriate by the Standards Committee, may be applied / recommended:
- (a) a recommendation to the Council or Parish Council (as appropriate) that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
  - (b) the issue of an instruction that the Subject Member is removed from specified Committee(s) of the Council;

- (c) a recommendation to the Mayor that the Subject Member be removed from the Executive or removed from particular Portfolio responsibilities;
- (d) an instruction to the Monitoring Officer, or the Parish Council (as appropriate), to arrange training for the Subject Member;
- (e) a recommendation to the Council, or Parish Council (as appropriate), that the Subject Member is removed from all outside appointments to which they have been appointed or nominated by the Council, Executive or Parish Council;
- (f) an instruction to the Monitoring Officer, or Parish Council (as appropriate), to withdraw facilities provided to the Subject Member by the Council, or Parish Council, such as a computer, website and/or email and internet access;
- (g) an instruction to the Monitoring Officer or Parish Council (as appropriate), to implement a Communications Plan for the Subject Member;
- (h) an instruction to the Monitoring Officer, or Parish Council (as appropriate), to exclude the Subject Member from the Council or Parish Council's offices or other premises, with the exception of meeting rooms as necessary for Council or Parish Council Committee meetings;
- (i) an instruction to the Monitoring Officer, or Parish Council (as appropriate), to apply the informal resolution process;
- (j) an instruction to the Monitoring Officer, or Parish Council (as appropriate), to issue a press release or other form of publicity; or
- (k) an instruction to the Monitoring Officer, or Parish Council (as appropriate), to restrict the Subject Member's access to confidential or exempt information.

8.10.2 The Standards Committee has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

8.10.3 The Standards Committee may specify that any sanction takes effect immediately or takes effect at a later date and/or that the sanction be time limited. If the sanctions are not complied with within the timescale directed by the Standards Committee, the Monitoring Officer will report the fact to the chair of the Standards Committee, wherein further sanctions may be considered by the Standards Committee.

8.10.4 When deciding whether to apply one or more sanctions referred to in [section 8.10.1](#) above, the Standards Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. In determining reasonableness, the Standards Committee will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

- (a) What was the Subject Member's intention, and did they know that they were failing to follow the Council's or Parish Council's Members' Code of Conduct?



- (b) Did the Subject Member receive advice from Officers before the incident and was that advice acted on in good faith?
- (c) Has there been a breach of trust?
- (d) Has there been financial impropriety, for example, improper expense claims or procedural irregularities?
- (e) What was the result / impact of failing to follow the Council's or Parish Council's Members' Code of Conduct?
- (f) Was there an impact on others?
- (g) How serious was the incident?
- (h) Does the Subject Member accept that they were at fault?
- (i) Did the Subject Member apologise to the relevant persons?
- (j) Has the Subject Member previously been reprimanded or warned for similar misconduct?
- (k) Has the Subject Member previously breached the Council's or Parish Council's Members' Code of Conduct?
- (l) Is there likely to be a repetition of the incident?

**8.11 How and when are Standards Committee decisions and recommendations published?**

8.11.1 Within five (5) working days of the Standard Committee's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Standards Committee's decision and recommendations, and the reasons for the decision and recommendations, on the Council's website.

8.11.2 Within five (5) working days of the announcement of the Standards Committee's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, to:

- (a) The Subject Member;
- (b) The Complainant; and
- (c) The clerk to the Parish Council (if appropriate).

## **Section 9 – Corporate Affairs and Audit**

This section explains the function of the Corporate Affairs and Audit Committee, which fulfils the Council's statutory audit function.

### **9.1 What functions does the Corporate Affairs and Audit Committee have?**

The Corporate Affairs and Audit Committee has delegated powers to:

#### **9.1.1 General**

- (a) Deal with any matter, which is not an Executive Function and that has not been delegated to any other Committee, including consideration and approval of the Council's draft and final accounts.
- (b) Grant dispensation to Councillors, Co-opted Members and Parish Council Members from the requirements relating to declarations of interest.
- (c) Consider any items of urgency that would require the approval of the Council, as determined by the Head of Paid Service in consultation with the Chair and the leader of the Majority Group.

#### **9.1.2 External Audit Functions**

- (a) Advise on the appointment of the Council's external auditor.
- (b) Discuss with the external auditor the nature and scope of audit coverage, including value for money (VFM).
- (c) Review external audit reports and annual audit letters, together with the management response, and make recommendations to the Executive.
- (d) Examine any other concerns of the external auditors.

#### **9.1.3 Internal Audit Functions**

- (a) Monitor the progress and performance of internal audit.
- (b) Review the internal audit annual plan.
- (c) Consider significant findings of internal audit reviews and investigations, together with management responses, and monitor implementation of agreed recommendations.
- (d) Advise the Executive on the internal audit function, resourcing and standing within the Council.
- (e) Ensure co-ordination between internal and external auditors.
- (f) Consider the Audit Manager's annual report and comment annually on the adequacy and effectiveness of internal audit control systems within the Council.

9.1.4 Risk Management Functions and Business Continuity Functions

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

9.1.5 Internal Control Functions

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

9.1.6 Corporate Governance

- (a) Keep under review the Council's arrangements for corporate governance and propose any necessary actions to ensure compliance with best practice.
- (b) Keep under review corporate policies such as the Public Information Disclosure Code (Whistleblowing) and Anti-fraud Strategy and [Data Quality Policy](#).
- (c) Ensure that effective systems are in place to underpin the Council's processes and ensure the highest standards in respect of audit and corporate governance matters.
- (d) Maintain an overview of the whistle-blowing policy, complaints handling and Ombudsman investigations.

9.1.7 Reporting

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

## **Section 10 – Joint Arrangements**

This section explains when and how the Council may enter into Joint Arrangements. It also gives details of Joint Arrangements that the Council has entered into with other local authorities.

### **10.1 What are Joint Arrangements?**

There are circumstances where the Council or the Executive is entitled to carry out certain functions jointly with another local authority. Joint Arrangements apply to how the Council works with other local authorities.

### **10.2 When will the Council enter Joint Arrangements?**

In order to promote the economic, social or environmental well-being of the Borough, the Executive may:

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

### **10.3 How do Joint Arrangements operate?**

- 10.3.1 The Council may establish Joint Arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or to advise the Council.
- 10.3.2 The Executive may establish Joint Arrangements with one or more local authorities to exercise Executive Functions. Joint committees may be set up to exercise these functions. Only Executive Members can sit on these committees, and they do not need to be politically balanced.
- 10.3.3 If a joint committee is concerned with functions that affect only a part of the Borough which is smaller than two-fifths of the total by area or population, the Executive may appoint Councillors who are not Executive Members to the joint committee. Any such Councillor should be the Member for a Ward contained in the Borough covered by the joint committee.
- 10.3.4 Details of any Joint Arrangements including any delegations to joint committees will be recorded in the Scheme of Delegation in **Part X** of this Constitution.
- 10.3.5 The Access to Information Procedure Rules in Part 3 of this Constitution apply to any Joint Arrangement.

### **10.4 What Joint Arrangements does the Council have in place?**

The Council has established a Single Health and Wellbeing Board with Redcar and Cleveland Borough Council. The Board's aims are to:

- (a) provide strategic direction for health and wellbeing related initiatives.
- (b) ensure that the councils have strategic influence over commissioning decisions across health, public health and social care;
- (c) strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning decisions alongside commissioners across health and social care;
- (d) provide a forum for challenge, discussion, and the involvement of local people in health and social care decision-making;
- (e) bring together clinical commissioning groups and council commissioners to develop a shared understanding of the health and wellbeing needs of the community;
- (f) ensure the Joint Strategic Needs (and assets) Assessment (JSNA) is undertaken and develop a joint Health and Wellbeing Strategy to address needs and improve health and wellbeing outcomes. This will include supporting the development of joint commissioning and integrating services across health and care where this makes sense; and
- (g) create a more effective and responsive local health and care system. Other services that impact on health and wellbeing such as housing and education provision will also be addressed.

## **10.5 How is delegation to and from other local authorities managed?**

- 10.5.1 The Council may delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- 10.5.2 The Executive may delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.
- 10.5.3 The decision to accept a delegation from another local authority is made by Full Council.

## Section 11 – Officers

This section sets out the role of Officers, and their management and employment arrangements. It also explains the roles of the three statutory officers: the Head of Paid Service (who is the Chief Executive at Middlesbrough), the Monitoring Officer and the Chief Finance Officer.

### 11.1 What is the management structure for Officers?

#### 11.1.1 General

The Council may engage such staff (referred to as Officers) as it considers necessary to carry out the functions of the Council.

#### 11.1.2 Statutory Officers

Certain posts are required by law.

The Council will designate the following posts as shown:

Council post	Designation	Role
Chief Executive	Head of Paid Service	Responsible for management functions
Director of Legal and Governance Services	Monitoring Officer	Responsible for the lawfulness and fairness of Council decision-making
Director of Finance	Chief Finance Officer	The Council's 'Responsible Finance Officer'

#### 11.1.3 Restrictions on posts

The Monitoring Officer may not be the Head of Paid Service or the Chief Finance Officer<sup>24</sup>.

The Chief Finance Officer may not be the Monitoring Officer<sup>25</sup>.

#### 11.1.4 Structure

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of Officers. This is set out in **Part 5** of this Constitution.

### 11.2 What does the Head of Paid Service do?

<sup>24</sup> [Local Government and Housing Act, section 5](#)

<sup>25</sup> [Local Government and Housing Act, section 5](#)

The Head of Paid Service may report to Council on the way the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of those functions and the organisation of Officers.

### **11.3 What does the Monitoring Officer do?**

#### **11.3.1 Reviewing and maintaining the Constitution**

The Monitoring Officer will review and maintain the Council's Constitution as set out in section [ ].

#### **11.3.2 Ensuring lawfulness and fairness of decision-making**

If the Monitoring Officer considers that a proposal, decision or omission of the Council or the Executive would give rise to unlawfulness or maladministration, they will report this to Full Council or the Executive (as appropriate, depending on the nature of the function to which it relates). Before making a report, the Monitoring Officer will consult with the Head of Paid Service and the Chief Finance Officer.

The proposal or decision will not be implemented until the report has been considered.

#### **11.3.3 Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct by supporting the Standards Committee.

#### **11.3.4 Conducting investigations**

The Monitoring Officer will conduct or secure investigations, or arrange for investigations to be conducted, into complaints made under the Members' Code of Conduct and make reports and/or recommendations in respect of them to the Standards Committee.

#### **11.3.5 Proper Officer for access to information**

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

#### **11.3.6 Advising whether Executive decisions are within the Budget and Policy Framework**

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

#### **11.3.7 Providing advice**

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

#### 11.3.8 Other responsibilities

The Monitoring Officer is also responsible for corporate Complaints, Ombudsman cases and whistleblowing. The Monitoring Officer may delegate these responsibilities to other Officers.

### 11.4 **What does the Chief Finance Officer do?**

The Chief Finance Officer is the Council's most senior financial Officer and fulfils the statutory role of Chief Finance Officer.

#### 11.4.1 Ensuring lawfulness and financial prudence of decision making

If the Chief Finance Officer considers that a proposal, decision or course of action of the Council will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully, they will report this to Full Council or the Executive (as appropriate, depending on the nature of the function to which it relates). Before making a report, the Monitoring Officer will consult with the Head of Paid Service and the Chief Finance Officer.

The proposal or decision will not be implemented until the report has been considered.

#### 11.4.2 Administration of financial affairs

The Chief Finance Officer is responsible for the administration of the Council's financial affairs.

#### 11.4.3 Contributing to corporate management

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

#### 11.4.4 Providing advice

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

#### 11.4.5 Give financial information

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

### 11.5 **How are the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer supported in their role?**

The Council will provide the resources and Officers it deems sufficient to support the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer in performing their duties.



## **11.6 How should Officers behave?**

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

## **OFFICER EMPLOYMENT PROCEDURE RULES**

## **11.7 What are the employment arrangements for Officers?**

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

## **11.8 Who can be appointed as an Officer?**

### **11.8.1 Declarations**

- (a) Any candidate for appointment as an Officer, must state in writing whether they are the husband, wife, parent, grandparent, partner, child, stepchild, adopted child, grandchild, sibling, uncle, aunt, nephew, niece or close personal friend of the Mayor, a Councillor, an Officer, or of the partner of such persons.
- (b) No candidate so related to the Mayor, a Councillor or an Officer will be appointed without the authority of the relevant Director or an Officer nominated by them.

### **11.8.2 Seeking support for an appointment**

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of the Mayor, any Councillor or any Officer or the Head of Governors of any educational establishment for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) No Councillor, nor the Mayor, will seek support for any person for any appointment with the Council or give a reference for any person for any appointment with the Council.

## **11.9 How are Chief Officers recruited?**

Where the Council proposes to appoint a Head of Paid Service, a **Corporate Director**, Monitoring Officer, Chief Finance Officer or other statutory or non-statutory Chief Officer<sup>26</sup> and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the Officer concerned; and

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<sup>26</sup> [Local Government Act 1989, section 2\(6\) and \(7\)](#)

- (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be brought to the attention of potential applicants.

#### **11.10 How are Chief Officers appointed?**

11.10.1 A “Chief Officer Appointments Committee” of seven Members nominated annually by the Council, which shall include the Mayor, the Deputy Mayor and the relevant Portfolio Holder, shall appoint the Head of Paid Service. The appointment shall be approved by Full Council following the recommendation of the Chief Officer Appointments Committee.

11.10.2 Full Council may approve the appointment of the Head of Paid Services provided that no well-founded objection has been received from an Executive Member within three (3) days of notification of the Chief Officer Appointments Committee’s recommendation.

11.10.3 The Chief Officer Appointments Committee will appoint Chief Officers, including the Monitoring Officer and the Chief Finance Officer, unless such appointment is on an interim basis (six months or less).

11.10.4 Interim appointments of Chief Officers are to be made by the Head of Paid Service.

11.10.5 An offer of employment can be made in respect of a Chief Officer post save where an Executive Member provides a well-founded objection to the appointment.

#### **11.11 How are other Officers appointed?**

11.11.1 Officers who are not Chief Officers will be appointed by the relevant line manager in accordance with the Council’s Recruitment and Selection Procedure. Members are not involved in the recruitment of Officers who are not Chief Officers.

#### **11.12 What is a Political Assistant and how are they appointed?**

11.12.1 A Political Assistant is a person who is appointed to assist members of a political group within the Council in discharging their functions.

11.12.2 A Political Assistant may be appointed by any Group which qualifies for one<sup>27</sup> and to which such a post has been allocated by the Council.

11.12.3 Each Group which qualifies for a Political Assistant may only appoint one. The Council will only allocate a maximum of three posts of Political Assistant and these shall be allocated to the three largest Groups who qualify.

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<sup>27</sup> [Local Government and Housing Act 1989, section 9](#)

11.12.4 Political Assistants will be appointed by the Head of Paid Service in consultation with the relevant Group Leader or their nominee. The Group Leader or their nominee shall be entitled to attend any interview for the relevant Political Assistant.

### **11.13 Can the Mayor appoint an assistant?**

The Mayor may appoint an assistant to assist them in the discharge of their functions. Any such assistant will be appointed as an employee of the Council<sup>28</sup>.

### **11.14 What happens when the Council is responsible for appointing someone but not for employing them?**

Where the Council is responsible for appointing someone but not for employing them, the appointment will be the responsibility of the relevant Lead Officer in line with relevant guidance and/or the Council's Recruitment and Selection Procedure.

### **11.15 What are the Council's disciplinary procedures for Officers?**

#### **11.15.1 Statutory Officers**

Disciplinary action in respect of Statutory Officers shall be conducted in accordance with the Standing Orders set out in [section \[ \]](#)<sup>29</sup>.

#### **11.15.2 Other Chief Officers**

Disciplinary action in respect of Chief Officers who are not Statutory Officers shall be conducted in accordance with Part Four of the [Conditions of Service of the Joint Negotiating Committee of Chief Officers of Local Authorities](#).

#### **11.15.3 Other Officers**

#### **11.15.4 Involvement of Councillors and the Mayor**

Councillors and the Mayor will not be involved in any disciplinary action relating to Officers who are not Chief Officers except:

- (a) Where their involvement is necessary for any investigation or inquiry into alleged misconduct; or
- (b) As a member of the Council's Staff Appeals Committee for the purpose of hearing appeals.

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<sup>28</sup> [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002, section 3](#)

<sup>29</sup> [The Local Authorities \(Standing Orders\) \(England\) Regulations 2001, Schedule 3](#)

## **Section 12 – Finance, Contracts and Legal Matters**

This section sets out how the Council's finances are managed, how it enters into contracts, and who is responsible for legal matters relating to the Council. It also explains how the Council's Common Seal is used.

### **12.1 How are the Council's finances managed?**

The rules for how the Council's financial affairs are managed are set out in **section X** of this Constitution.

### **12.2 How are contracts entered into by the Council?**

Every contract made by the Council will comply with section X of this Constitution.

### **12.3 Who is responsible for legal proceedings in which the Council is involved?**

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

### **12.4 How are Council documents authenticated?**

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

### **12.5 How does the Council execute documents?**

12.5.1 The Council has a Common Seal for executing documents.

12.5.2 The Monitoring Officer is responsible for the Council's Common Seal and will keep it in a safe place.

12.5.3 If the Council has decided on a matter, that decision (or a part of it) will be authority to execute any related document.

12.5.4 The Monitoring Officer will decide when the Common Seal should be affixed to a document. The Monitoring Officer, or another person authorized by them, will attest affixing of the Common Seal.

12.5.5 Execution of documents not requiring a seal

## **Section 13 – Decision-Making**

The purpose of this section 13 is to set out who is responsible for making the various decisions of the Council. It also explains the principles under which decision-making powers are delegated to different people. Full detail of who can make decisions in relation to a specific function is set out in the Scheme of Delegation.

### **13.1 Who are the Council's decision makers?**

Under this Constitution, there are a number of different decision makers:

- (a) Full Council;
- (b) a Committee or its sub-committee(s);
- (c) the Mayor;
- (d) the Executive;
- (e) a Committee of the Executive;
- (f) an individual Executive Member;
- (g) a Joint Committee; and
- (h) an Officer.

The Council will maintain a Scheme of Delegation setting out who within the Council is responsible for different decisions.

### **13.2 On which principles is Council decision-making based?**

The principles underpinning Council decision-making are:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from Officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) the giving of reasons for a decision (including options considered).

### **13.3 How are delegations of Council functions recorded?**

The Council will maintain the tables in **Part 1** of the Scheme of Delegation setting out the responsibilities for the Council's function which are not Executive Functions<sup>30</sup>.

#### **13.4 Which decisions are made by Full Council?**

13.4.1 The Council is the decision-making body for all Non-Executive Functions, and any functions reserved to Full Council by law. It may delegate many of those functions to a Committee or an Officer. The functions of Full Council are set out in **section 4**.

13.4.2 The Council Procedure Rules in **Part X** of this Constitution set out how Full Council makes decisions.

#### **13.5 Which decisions are made by the Executive?**

13.5.1 The Executive makes decisions in relation to all Executive Functions. The functions of the Executive are set out in **section 6**.

13.5.2 The Executive Procedure Rules in **Part 3** of this Constitution set out how the Executive makes decisions.

#### **13.6 Which decisions are made by the Overview and Scrutiny Board?**

13.6.1 The Overview and Scrutiny Board makes decisions in relation to its functions. The functions of the Overview and Scrutiny Board are set out in **section X**.

13.6.2 The Overview and Scrutiny Procedure Rules **in Part X** of this Constitution set out how the Overview and Scrutiny Board makes decisions.

#### **13.7 Which decisions are made by other Committees?**

13.7.1 Other Committees make decisions in relation to the functions that have been delegated to them. The functions of the Standards Committee are set out **in section X** and the functions of the Corporate Affairs and Audit Committee are set out in **section Y**. The functions of any other Committee will be as described in its terms of reference.

13.7.2 The Council Procedure Rules in **Part X** of this Constitution set out how Committees make decisions (unless provided otherwise in this **section 13**).

#### **13.8 How does a Council body make a decision when acting as a tribunal?**

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

#### **13.9 Which decisions are made by Officers?**

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<sup>30</sup> [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#)

- 13.9.1 Decisions may be delegated to Officers by Full Council, the Executive, a Committee or a Joint Committee, either under a general authorization, or a specific express authorisation under the Scheme of Delegation. Any decision made under a delegated authority should be recorded in writing if it is a significant organisational / operational decision taken in relation to Council / Executive functions, which is not a Key Decision or a routine organisational / operational decision.
- 13.9.2 For the avoidance of doubt, it is not necessary for Officers to record in writing routine organisational / operational decisions taken in relation to Council / Executive functions which are neither Key Decisions nor significant decisions and:
- (a) are within an approved Budget;
  - (b) do not conflict with the Budget and Policy Framework or other approved policies; and
  - (c) do not raise new issues of policy,
- unless otherwise required by law.

### **13.10 What is a “Key Decision”<sup>31</sup>?**

13.10.1 A Key Decision is a decision that:

- (a) will incur expenditure or savings of £150,000 or more; or
- (b) will have a significant impact on two or more Wards.

Key Decisions must be made in accordance with the Executive Procedure Rules set out in **Part 3** of this Constitution.

13.10.2 The Council will, unless it is impracticable to do so, treat as if it were a Key Decision any decision which is likely to have a significant impact on communities in one Ward or electoral division. Where a decision is only likely to have a significant impact on a very small number of people in one Ward or electoral division, the decision-maker will ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and input into the decision-making process. The Council will also have regard to the existence of significant communities of interest that cannot be defined spatially in determining whether a decision is a Key Decision pursuant to this **section 13.10.2**.

13.10.3 The following will also be Key Decisions:

- (a) A proposal by the Executive to amend the Policy Framework;
- (b) A decision by the Executive to amend the Policy Framework where the Council has granted it power to do so; and

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<sup>31</sup> [The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012, paragraph 8](#)

- (c) The Executive's response to a report of the Overview and Scrutiny Board or a Scrutiny Panel.

13.10.4 A decision will not be a Key Decision if it relates to:

- (d) a bid for funding in excess of £150,000 where a further report will be submitted to the Executive for approval if the bid is successful;
- (e) inevitable expenditure for the day-to-day delivery of Services (for example, supplies, salaries and wages), as determined by the Head of Paid Service;
- (f) a transaction which is carried out as part of the efficient administration of the Council's finances within the Council's agreed policies (for example, Treasury management);
- (g) an invitation to tender or the signing of a contract to:
  - (i) fulfil the policy intention of a Key Decision;
  - (ii) implement a policy under the Budget and Policy Framework;
  - (iii) implement a capital project named in the approved capital programme;  
or
  - (iv) provide for the continuation of an approved policy or Service;
- (h) a proposal that is included in Budget in sufficient detail for it to be understood by interested parties;
- (i) care packages, service responses and expenditure for care and accommodation which relate to individual service users, and which are exempt and
- (j) in relation to the tendered sale of Council houses, acceptance of an offer which exceeds the Council's valuation by more than £150,000.

### **13.11 How are Key Decisions published?**

A Key Decision must be published on the Council's Forward Plan 28 days before the decision is taken. Where the publication of the intention to take a Key Decision is impractical, the Chair of Overview and Scrutiny Board must be informed.



**Section 14 – Financial and Contract Procedure Rules (Standing Orders)**

- 14.1 The Chief Finance Officer shall prepare and maintain a document containing the rules (Standing Orders) to be followed in respect of financial and contract procedures.
- 14.2 This document shall be referred to as the Financial and Contract Procedure Rules (Standing Orders) and shall be considered part of this Constitution and is hereby deemed incorporated into this Constitution.
- 14.3 All financial transactions and contract proceedings of the Council must be carried out in accordance with the Financial and Contract Procedure Rules.

## **Section 15 – Scheme of Delegation**

- 15.1 The Monitoring Officer, on behalf of the Council, shall prepare and maintain a register of delegations from the Council and the Mayor to Committees, Executive Members, and Officers.
- 15.2 This register shall be referred to as the Scheme of Delegation and shall be considered part of this Constitution and is hereby deemed incorporated into this Constitution.
- 15.3 The exercise of all powers not contained in the Scheme of Delegation must be subject to an explicit authority from the Council, the Mayor or the Executive, as appropriate.

## **Section 16 – Access to Information Procedure Rules**

These rules set out how and when members of the public may attend Council meetings, and public rights of access to information relating to the Council. They also cover Member rights of access to information relating to Executive decisions.

### **16.1 What is the scope of these Procedure Rules?**

16.1.1 These rules apply to all meetings of the Council, the Executive, the Overview and Scrutiny Board Overview and Scrutiny Panels, the Standards Committee, and regulatory Committees.

16.1.2 These rules do not apply to the Licensing Committee<sup>32</sup>.

### **16.2 How do these Rules relate to other public access rights?**

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

## **ATTENDING COUNCIL MEETINGS**

### **16.3 When may members of the public attend Council meetings?**

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

### **16.4 How much notice with the Council give before a meeting?**

16.4.1 Unless a meeting is convened at short notice, the Council will give at least five (5) working days' notice of any meeting by posting details of the meeting on the public notice board inside the main reception of the Town Hall, and on its website.

16.4.2 Where it is necessary to hold a meeting, or part of a meeting in private and exclude the press and public in order to consider exempt or confidential information, (whether during the whole or part of the proceedings at the meeting) the reasons will be specified in the resolution to exclude the press and public. The reasons will depend on the nature of the business to be transacted.

## **ACCESS TO MEETING DOCUMENTS**

### **16.5 What access will the public have to meeting agendas and reports before the meeting?**

16.5.1 The Council will make copies of the agendas of meetings that are open to the public available for inspection at the main reception of the Town Hall and on its website at least five (5) working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

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<sup>32</sup> [Licensing Act 2003, section 9](#)

- 16.5.2 The Council will make copies of the reports available on its website and upon request to Democratic Services. Where reports are prepared after the agenda has been sent out, the Council shall make each such report available to the public as soon as the report is completed and sent to Councillors.

#### **16.6 When will the Council provide copies of documents?**

- 16.6.1 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

- 16.6.2 The Council will supply copies of the following to any person on request:

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

A charge will apply for copying and postage.

- 16.6.3 Copies will also be made available on the Council's website, which can be downloaded free of charge.

- 16.6.4 Copies of documents supplied to members of the public, in respect of which the Council is the copyright holder, may be reproduced in any publicly available medium.

#### **16.7 How can minutes of meetings be accessed?**

The Council will publish on its website and make available hard copies of the following documents for six (6) years after the date of a meeting:

- (a) the minutes of the meeting or, in the case of meetings of the Executive, records of decisions taken including the reasons for those decisions, excluding any part of the minutes, or record of decisions, when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

#### **16.8 How are background papers provided to the public?**

- 16.8.1 List of background papers

The Officer preparing the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report.

This does not include any published works or those which disclose exempt or confidential information (as defined in **Rule 13**) and/or in respect of reports to the Executive, the advice of a political adviser, or any draft report or document.

#### **16.8.2 Public inspection of background papers**

The Council will make available, on request, for public inspection for four (4) years after the date of a formal Committee meeting one (1) copy of each of the documents on the list of background papers.

### **SUMMARY OF PUBLIC ACCESS RIGHTS**

#### **16.9 Where are the public's rights summarised?**

These Access to Information Procedure Rules are a written summary of the public's rights to attend meetings and to inspect and copy documents. A copy of these rules will be kept at the Council's principal offices and will be made available for public inspection.

### **EXCLUSION OF THE PUBLIC FROM MEETINGS**

#### **16.10 When can members of the public be excluded from Council meetings?**

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

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

##### **16.10.2 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

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

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted that exempt information would be disclosed.

- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998<sup>33</sup> establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 16.11 What is “exempt information”?

16.11.1 Exempt information means information falling within any of the categories set out in the following table, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 197234.

16.11.2 Information falling within any of paragraphs 1-7 in the table below is not exempt information if it relates to a proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992<sup>35</sup>.

Category	Condition
1. Information relating to any individual.	Public interest test applies (see below)
2. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>• The Companies Act 1985;</li> <li>• The Friendly Societies Act 1974;</li> <li>• The Friendly Societies Act 1992;</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978;</li> <li>• The Building Societies Act 1986; or</li> <li>• The Charities Act 1993</li> </ul> <p>Public interest test applies (see below)</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.	Public interest test applies (see below)
5. Information in respect of which a claim to legal professional privilege	

<sup>33</sup> Human Rights Act 1998 ([legislation.gov.uk](http://legislation.gov.uk))

34 [Local Government Act 1972 \(legislation.gov.uk\)](#)

<sup>35</sup> [The Town and Country Planning General Regulations 1992 \(legislation.gov.uk\)](#)

could be maintained in legal proceedings.	
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	Public interest test applies (see below)
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Public interest test applies (see below)
<p>8. In relation to a meeting of a Standards Committee which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):</p> <p>7A Information which is subject to any obligations of confidentiality.</p> <p>7B Information which relates in any way to matters concerning national security.</p> <p>7C The deliberations of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.</p>	Public Interest test applies (see below)

## 16.12 What is the “public interest test”?

### 16.12.1 Information which:

- (a) falls within any of paragraphs 1-5 and 7 to 8 of **section [ ]** above; and
- (b) is not prevented from being exempt by virtue of the “qualifications” above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

16.12.2 The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

16.12.3 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

- (a) There is a distinction between public interest and what merely interests the public.
- (b) Does it further the understanding of and participation in the public debate of issues of the day?
- (c) Does it promote accessibility and transparency by public authorities for decisions taken by them or in the spending of public money?
- (d) Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- (e) Does it bring to light information affecting public health and public safety?

### 16.13 What does “exempt information” mean in the context of Health Scrutiny?

The following will be exempt information for the purposes of Health Scrutiny:

Category	Condition
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former officeholder or applicant to become an officeholder under, a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description. applicant for, accommodation provided by or at the expense of a relevant body.
3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods and services.	Information is exempt if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with



	a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons.
6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information is exempt if and so long as disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning the property or goods or services.
7. The identity of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services	
8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between a relevant body or a Minister of the Crown and employees of, or office-holders under, a relevant body.	Information is exempt if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph.
9. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:  (a) any legal proceedings by or against a relevant body, or  (b) the determination of any matter affecting a relevant body, (whether, in either case, proceedings have been commenced or are in contemplation).	
10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Health Authority.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description. of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Health Authority.
11. Information relating to a particular person who is or was providing services, or has made a request to a Health Authority to become a person	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.

providing services, under arrangements under section 28C of the 1977 Act.	
12. Information relating to a particular person who is or was formerly performing personal medical services or personal dental services in accordance with arrangements under section 28C of the 1977 Act.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
13. Information relating to any particular employee, former employee, or applicant to become an employee, of a person referred to in paragraph 10, 11 or 12.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
14. Information relating to the physical or mental health of a particular individual.	

#### **16.14 When are members of the public not permitted to have access to reports?**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with **Rule 14**, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

### **RECORDING OF DECISIONS**

#### **16.15 How are Executive decisions recorded?**

##### **16.15.1 Recording decisions**

- (a) A written record will be made of every Executive Decision made by the Executive and its Committees.
- (b) This decision record will include a statement, for each decision, of:
  - (i) the name of the decision-making body;
  - (ii) the decision made;
  - (iii) the date the decision was made;
  - (iv) the reasons for that decision;
  - (v) any personal interest declared;

- (vi) any dispensation that was granted in respect of a declared conflict of interest; and
- (vii) details of any alternative options considered.

#### 16.15.2 Preparing the record of decisions

- (a) The Monitoring Officer, or their representative, shall attend any meeting of the Executive, an Executive Committee or a Joint Arrangement where all its Members are members of a local authority executive, and shall, as soon as reasonably practicable after the meeting, produce a decision record.
- (b) Where an individual Executive Member has made a decision:
  - (i) that Executive Member shall, as soon as reasonably practicable, instruct the Head of Democratic Services to produce a decision record; and
  - (ii) the decision shall not be implemented until that decision record has been produced and the Call-In period has expired (see section [ ]) and subject to paragraph (c) below.
- (c) Where the date by which a decision made by an individual Executive Member must be implemented makes compliance with section 16.15.2(b) above impracticable, the decision may be implemented in accordance with section [7.25.1].

#### 16.16 How are decisions of individual Executive Members recorded?

16.16.1 An individual Executive Member may not make a Key Decision unless it has been included in the Notice of Forthcoming Executive Decisions (see Rule 18 above) or the procedure set out in Rule 21 (general exception) or Rule 22 (special urgency) has been complied with.

16.16.2 An Executive Member may only take an Executive Decision where they are authorised to do so in the Scheme of Delegations approved by the Mayor.

#### 16.16.3 Reports intended to be taken into account

Where an individual Executive Member receives a report which they intend to take into account in making any Key Decision, then they will not make the decision until at least five (5) days after receipt of that report.

#### 16.16.4 Availability of copies of reports to the public

Subject to any restrictions concerning confidential / exempt information in these Rules, a copy of any record produced in accordance with Rule 26.4 and any report considered by the Executive Member which is relevant to the decision concerned must be made available for public inspection at the Council's offices and published on the Council's website as soon as reasonably practicable after the decision has been made.

#### 16.16.5 Record of individual decisions

The decision recording rules in section [ ] will apply.

### 16.17 How are decisions made by Officers recorded?

16.17.1 Where an Officer intends to take a Key Decision, the decision-making process for Key Decisions must be followed. The item should be placed on the Executive Forward Plan 28 days before the decision is taken. The decision should be published within 48 hours of the decision being taken.

#### 16.17.2 Availability of copies of decisions to the public

Subject to any restrictions concerning confidential / exempt information in these Rules, as soon as reasonably practicable, but within 28 days, after a significant operational decision taken by an Officer in relation to a Council function, the officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report (if any) in relation to the decision made. The record will include:

#### 16.17.3 Record of Officer decisions

The decision recording rules in section [ ] will apply.

## OVERVIEW AND SCRUTINY ACCESS TO INFORMATION

### 16.18 What access does the Overview and Scrutiny Board have to Executive documents?

#### 16.18.1 Right to copies

Subject to Rule 27.2 below, the Overview and Scrutiny Board and the Scrutiny Panels will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive or its Committees;
- (b) any decision taken by an individual Executive Member; and
- (c) any Executive decision that has been made by an Officer under their delegated powers.

The documents must be provided as soon as practicable but no later than 10 days after a request is received.

#### 16.18.2 Limit on rights

- (a) The Overview and Scrutiny Board, or any Scrutiny Panel, will not be entitled to:

- (i) any document that is in draft form;
  - (ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
  - (iii) the advice of a political or mayoral assistant.
- (b) Where the Monitoring Officer determines that Overview and Scrutiny boards are not entitled to a copy of the document that has been requested for the reasons set out above, the Executive must provide the Overview and Scrutiny Board, or the relevant Scrutiny Panel, with a written statement setting out the reasons for that decision.

### **16.19 When can the Overview and Scrutiny Board request reports?**

16.19.1 If the Overview and Scrutiny Board or a Scrutiny Panel believes that a Key Decision has been taken which was not:

- (a) included in the Forward Work Programme; or
- (b) the subject of the general exception procedure set out in **section [ ]**; or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Board/panel, or the Chair or Vice Chair of the Council under **Rule 16**,

the Overview and Scrutiny Board or the Scrutiny Panel (as appropriate) may require the Executive to submit a report to the Council within such reasonable time as the it specifies.

16.19.2 The power to request a report is also delegated to the Proper Officer, who will require such a report on behalf of the Overview and Scrutiny Board or a Scrutiny Panel (as appropriate) when so requested by the relevant chair or any five (5) members of the relevant body. In respect of education matters this includes voting Co-opted Members.

16.19.3 Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board or the Scrutiny Panel (as appropriate).

#### **16.19.4 Mayor's report to the Council in respect such a decision**

- (a) The Mayor may prepare a report for submission to the next available meeting of the Council in respect of a decision which is subject to **section 16.19.1** above. However, if the next meeting of the Council is within seven (7) working days of receipt of the written notice, or the resolution of the Overview and Scrutiny Board or the Scrutiny Panel (as appropriate), the Mayor's report may be submitted to the meeting after that.
- (b) The report to Council will set out particulars of the decision, the individual or body making the decision and if the Mayor is of the opinion that it was not a key decision the reasons for that opinion.

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

The Mayor will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in **Rule 16 (special urgency)** in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. The report will also contain details of urgent decisions taken in accordance with the Overview and Scrutiny Procedure **Rules (Paragraph 8.10)**.

## **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **16.20 What additional access rights do Members have to Council information?**

#### **16.20.1 Documents relating to Council and Committee business**

- (a) Subject **to (b)** below, all Members of the Council are entitled to inspect any document which is in the possession or under the control of the Council and which contains material relating to any item of business to be dealt with at a meeting of the Council or a Committee.
- (b) **(a) above** does not require any document to be open to inspection if it appears to the Proper Officer that it discloses exempt information, unless that information falls within one of the following categories:
  - (i) Information relating to the financial or business affairs of any particular person, including the Council, except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract;
  - (ii) Information which reveals that the Council proposes:
    - to give under any enactment a notice or by virtue of which requirements are imposed on a person; or
    - to make an order or direction under any enactment Documents relating to executive business

#### **16.20.2 Documents relating to business to be transacted at public meetings of the Executive**

- (a) Subject to **section 16.20.4** below, any Member of the Council is entitled to inspect any document which is in the possession or under the control of the Executive and which contains material relating to any business to be transacted at a public meeting of the Executive unless:
  - (i) subject to Rule 31.5, the Proper Officer considers that the document discloses exempt information;
  - (ii) it contains the advice of a political or mayoral adviser;
  - (iii) it is a draft report or draft background paper; or
  - (iv) it is not a report or a background paper as defined in these rules.

- (b) Such documents must be available for inspection for at least five (5) days before the meeting concerned except that:
  - (i) where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and
  - (ii) where an item is added to the agenda at shorter notice, any document required to be available in relation to that item must be available when that item is added to the agenda.

#### 16.20.3 Further rights to information relating to Executive Decisions

Subject to **section 16.20.4** below, all Members of the Council are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to:

- (a) any business transacted at a private meeting;
- (b) any decision made by an individual Member in accordance with the Council's Executive arrangements; or
- (c) any decision made by an Officer in accordance with the Council's Executive arrangements when the meeting concludes or, where an Executive decision has been made by an individual Member or an Officer, immediately after the decision has been made, and in any event within 24 hours of the conclusion of the meeting, or the decision being made, as the case may be, unless the Proper Officer considers (subject to Rule 31.5 below) that the document discloses exempt information.

#### 16.20.4 Rights to inspect certain exempt information

**Sections 16.20.2 and 16.20.3** do not prohibit Members from inspecting documents containing the following categories of exempt information:

- (a) Information relating to the financial or business affairs of any particular person, including the Council, except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; and
- (b) Information which reveals that the Council proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment

#### 16.20.5 Advice of a political or mayoral assistant

Nothing in sections 16.19.2 to 16.19.4 above requires any document or a part of any document to be available for inspection if it contains the advice of a mayoral / political assistant.

16.20.6 Material relating to Key Decisions

Unless section 16.20.All Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any Key Decision unless section 16.20.1 or 16.20.2 above applies.

16.20.7 Nature of rights

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



## **Section 17 – Budget and Policy Framework Procedure Rules**

### **17.1 The framework for Executive decisions**

The Council will be responsible for adopting a Budget and a Policy Framework. Once a Budget or a Policy Framework is in place, the Executive will be responsible for implementing it.

### **17.2 What is the process for developing the Budget and the Policy Framework?**

17.2.1 The process by which the Budget and the Policy Framework shall be developed is:

- (a) Before a plan / strategy / budget is prepared, the Executive will publish initial proposals for the Budget and the Policy Framework, having first canvassed the views of local stakeholders, as appropriate and in a manner suitable to the matter under consideration. Any representations made to the Executive may be considered in formulating the initial proposals and shall be reflected in any report dealing with them. The Overview and Scrutiny Board and any relevant Scrutiny Panel may participate in the consultation and have their response considered. The timeline for the proposals and the consultation will be published in the Forward Work Programme.
- (b) At the end of the consultation period, the Executive will draw up firm proposals, and the Proper Officer will refer them at the earliest opportunity to the Council for decision. The Council may:
  - (i) adopt the Executive's proposals;
  - (ii) suggest amendments to the proposals;
  - (iii) refer the proposals back the Executive for further consideration; or
  - (iv) substitute its own proposals in place of the Executive's proposals, subject to the verification of those proposals by the Chief Finance Officer.
- (c) The Council will decide on the Executive's proposals by a simple majority of votes cast at the meeting. If the Council decides to adopt the Executive's proposals, it may approve them with immediate effect. If the Council decides not to adopt the Executive's proposals in their submitted form, it can decide to approve the proposals in principle, subject to suggested amendments and/or subject to further consideration by the Executive.
- (d) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Mayor.
- (e) An in-principle decision will automatically become effective five (5) working days from the date of the Council's decision, unless the Mayor informs the Proper Officer in writing before that time has elapsed that they object to the decision becoming effective and provides reasons why.

- (f) In that case, the Proper Officer will call a Council meeting within 10 working days of the Mayor informing them of their objection. The Council will be required to re-consider its decision and the Mayor's written submission at the meeting. The Council will decide again on the proposals and either:
  - (i) accept the proposals in their submitted form by a simple majority of votes; or
  - (ii) approve a different decision which does not accord with the recommendation of the Executive by a two thirds majority of those present and voting.
- (g) Once the Budget and Policy Framework proposals are approved, the Council's decision will be published in accordance with **Article 4**, and shall be implemented immediately;
- (h) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and the degree of in-year changes to the Policy Framework which may be undertaken by the Mayor, in accordance with **paragraphs 5 and 6** of these Budget and Policy Framework Procedure Rules. Any other changes to the Budget and the Policy Framework are reserved to the Council.

### **17.3 In what circumstances can decisions be made outside the Budget and the Policy Framework?**

- 17.3.1 Subject to the provisions of the Financial Regulations, and subject to paragraph 4 below, the Executive, Executive Committees, individual members of the Executive and any Officers or Joint Arrangements discharging Executive Functions may only make decisions in line with the Budget and Policy Framework.
- 17.3.2 If the Executive, Executive Committee, an Executive Member, or any Officers or Joint Arrangements discharging Executive Functions want to make a decision outside the Budget and the Policy Framework, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those Statutory Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, the decision must be referred to the Council for decision,, unless the provisions of **paragraph 4** apply.

### **17.4 When can urgent decisions be made outside the Budget or the Policy Framework?**

- 17.4.1 The Executive, an Executive Committee, an Executive Member, or Officers or Joint Arrangements discharging Executive Functions may take a decision which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget if the decision is a matter of urgency.
- 17.4.2 The decision may only be taken if in the opinion of the Chair, on in their absence the Vice Chair:

- (a) if it is not practical to convene a meeting of Full Council; and
- (b) if the Chair of the Overview and Scrutiny Board or relevant Scrutiny Panel agrees that the decision is a matter of urgency.

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

17.4.4 Following any decision made under this urgency procedure, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **17.5 What is virement and what are the rules on its use?**

17.5.1 Virement is the process by which the Council may transfer items from one budget head to another.

17.5.2 The Council has established rules for virement which are set out in the Financial and Contract Procedure Rules in **section [ ]** of this Constitution.

17.5.3 Steps taken by the Executive, a Committee of the Executive, an Executive Member, or Officers or a Joint Arrangement discharging Executive Functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads within the limits set out in the Financial and Contract Procedure Rules. Beyond those limits, approval of any virement across budget heads requires the approval of Full Council.

## **17.6 In what circumstances may in-year changes be made to the Policy Framework?**

The Council is responsible for approving the Budget and Policy Framework. An in-year change to the Policy Framework may be made where the change

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

**Section 18 – Financial Procedure Rules: Financial Regulations**

**18.1**

**Section 19 – Contract Procedure Rules**

**19.1**

## **Section 20 – Members’ Scheme of Allowance<sup>36</sup>**

The Members’ Schemes of Allowance set out what the Council pays to Councillors and Co-Opted Members by way of basic and special responsibilities allowances, pensions, carers’ allowances, and travelling and subsistence allowances.

### **MEMBERS SCHEMES OF ALLOWANCE 2022/23**

(As agreed at the Council AGM on 25 May 2022)

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

20.1 This Scheme may be cited as the Middlesbrough Borough Council Members’ Scheme of Allowances’, and shall have effect for the year commencing on 1st April 2022 and subsequent years, unless amended by the Council.

20.2 In this Scheme: “Year” means the 12 months ending with 31st March.

#### **20.3 Basic Allowance**

20.3.1 All Elected members including the Mayor of Middlesbrough Council receive a basic allowance to recognise the time devoted to carry out their work as Members. It is also intended to cover incidental costs such as use of members’ homes, attendance at meetings with officers, community meetings, and ward activities.

20.3.2 The Local Authorities (Members’ Allowances) (England) Regulations 2003 provide for the payment of a basic allowance in respect of each year to each member of an authority, and the amount of such an allowance shall be the same for each such member. Subject to paragraphs, 10 and 11 the allowance will be paid to each elected Councillor for the year 1st April 2022 to 31st March 2023.

20.3.3 For 2022/23 the basic allowance of £7,608 will be paid in equal monthly instalments.

20.3.4 The Basic Allowance will not be increased in line with staff pay rises.

#### **20.4 Special Responsibility Allowances**

20.4.1 Special Responsibility Allowances (SRAs) are paid in addition to the basic allowance to members who hold positions with significant responsibilities over and above the general duties of a councillor and are also paid in equal monthly instalments.

20.4.2 For each year a special responsibility allowance shall also be paid to those Members who hold the special responsibilities in relation to the Authority that are specified in Schedule 1, PROVIDED THAT no Member shall be entitled to receive more than one Special Responsibility Allowance. SRA allowances will remain static and shall not be increased in line with any subsequent annual staff pay award.

20.4.3 Special Responsibility Allowances were originally arrived at by an agreed multiple of the basic allowance. This process has been suspended from 1 April 2019 and will be further reviewed in 2023.

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<sup>36</sup> [The Local Authorities \(Members’ Allowances\) \(England\) Regulations 2003](#)

20.4.4 Subject to paragraphs 10 & 11.1 the amount of each such allowances shall be the amount specified against that special responsibility in Schedule1.

20.4.5 A special responsibility allowance relating to the duties of a Political Group Leader shall be payable to the leader of the overall majority group and to the leaders of the two largest minority Groups, where each of the minority Groups comprise at least 10% of the total number of Members of the Council.

20.4.6 Where there is no over-all majority group, the two largest political group leaders will receive a minority special responsibility allowance. Where only one of the two largest minority Groups comprise at least 10% of the total number of Members of the Council, a special responsibility allowance relating to the duties of Political Group Leader shall be payable to the leader of the next largest minority Group.

#### 20.5 Travelling and Subsistence Allowance – Councillors

20.5.1 A Councillor shall be entitled to receive appropriate travel and subsistence allowances where he/she necessarily incurs expenditure on travel or subsistence in order to perform an approved duty.

20.5.2 The amount of the allowance payable to a Member in respect of subsistence shall be the same as that approved by the Authority in respect of officers of the Council who are paid officer rates.

20.5.3 The subsistence allowance payable shall be increased or decreased to the same extent as determined by the Authority in respect of officers.

20.5.4 The allowance payable to a Member in respect of travel mileage shall be paid at the Inland Revenue rate (45p per mile).

20.5.5 For the purposes of this paragraph, approved duties shall include all those duties, which are specified in Part I of Schedule 2 to this Scheme.

#### 20.6 Travelling and Subsistence – Co-opted Members

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

#### 20.7 Dependent Carers Allowance

20.7.1 A Councillor or Co-opted Member shall be entitled to receive a dependent carers allowance to provide for children or adult care, where he/she has necessarily incurred that expenditure in respect of a dependent who is looked after by a registered provider whilst the Councillor or Co-opted Member is carrying out an approved duty.

20.7.2 The dependent carers allowance referred to in paragraph 7.2 above shall be paid per hour and be in line with the national living wage and limited to 7 hours per week.

20.7.3 The allowance will not be payable to a member of the claimant's own household.

20.7.4 For the purposes of this paragraph, an approved duty is any duty listed in Part I of Schedule 2 to this Scheme.

20.8 Telephone / Broadband Allowance

A member is entitled to a communications allowance of a £15 contribution towards their telephone connections and a £10 contribution towards broadband connections. One claim per household, subject to annual proof of service.

20.9 Pensions

No councillor shall be entitled to pensions in accordance with this scheme.

20.10 Renunciation

A Member may by giving notice in writing to the Director of Legal and Governance, or the Head of Democratic Services elect to forego all or part of their entitlement to an allowance under this Scheme. Where such a declaration is made, it remains in force until a further notice in writing is given to the Director of Legal and Governance or the Head of Democratic Services to withdraw it.

20.11 Part-year Entitlements

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

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

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

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

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



- 20.11.4 Where this Scheme is amended as mentioned in sub-paragraph 11.2, and the term of office of a Councillor does not subsist throughout the period mentioned in subparagraph 11.2a, the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.
- 20.11.5 Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- 20.11.6 Where a remunerated person has been absent due to exceptional circumstances, and another Member acts as chair for more than 50% of the meetings in any Municipal Year or chairperson is absent for more than two consecutive months, then the person who has acted as chair shall be remunerated in place of the appointed chairperson (on a pro rata basis).
- 20.11.7 Where payment of any allowance has already been made to the initially appointed person, the authority may require that such part of the allowances paid to the appointed person for any such period to be repaid to the authority (determined by the Monitoring Officer).
- 20.11.8 Where this Scheme is amended as mentioned in sub-paragraph 11.2 and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 11.2a of that paragraph any such responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.
- 20.11.9 Where a scheme of allowances is amended, the Council can choose to apply any amendment retrospectively to the beginning of the financial year in which the amendment is made.

## 20.12 Claims and Payments

20.12.1 Payments of allowances shall be made as follows:

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

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

20.12.3 A claim for expenses/subsistence under this scheme shall be made within two months of the date of the meeting in respect of which the claim is made.

20.12.4 Claims for travel and subsistence (other than mileage for approved duties) shall only be approved where receipts of expenditure have been provided and have been incurred in relation to an approved duty or with the approval of the Head of Democratic Services.

20.12.5 For each claim, Members shall submit an electronic claim acknowledging that they are entitled to claim the expenses and where appropriate that they hold the appropriate valid driving documentation.

20.12.6 Members should submit their claims by the 7th day of the month.

20.12.7 The Director of Legal & Governance Services shall have authority to agree a different frequency of payment with an individual Member on request.

**SCHEDULE 1****BASIC 2022/23 - £7608 x 47 Members (including Mayor)**

These allowances are not subject to the inflationary increase in line with staff pay awards.

**SPECIAL RESPONSIBILITY ALLOWANCES (SRAs)**

The following roles are specified as those designated as receiving a special responsibility allowances, and the amounts of those allowances. These allowances are not subject to the inflationary increase in line with staff pay awards.

<b><u>OFFICE</u></b>	<b>No of Positions</b>	<b>ALLOWANCE</b>	<b><u>Total</u></b>
Mayor	1	£55,952	£55,952
Deputy Mayor and Executive Member	1	£19,518	£19,518
Executive Members	8	£11,190	£89,520
Chair of Overview and Scrutiny Board	1	£11,190	£11,190
Chair of Licensing Committee	1	£8,393	£8,393
Chair of Planning and Development Committee	1	£8,393	£8,393
Chair of the Council	1	£5,595	£5,595
Chair of Corporate Affairs and Audit Committee	1	£5,595	£5,595
Chair of Scrutiny Panels	6	£5,595	£33,570
Chair of Standards Committee	1	£2,798	£2,798
Chair of Staff Appeals Committee	1	£2,798	£2,798
Chair of Teesside Pension Fund Committee	1	£2,798	£2,798
<b>Political Group Leaders:</b>			
Majority Group (currently not claimed)	1	£8,393	£8,393
Largest Minority Groups – maximum x 2 providing they have 10% of Council membership	2	£2,798	£2,798
<b>Total cost of SRA</b>	<b>25</b>		<b>£260,109</b>

***Banding Scheme Index*** – The Council's "Multiplier" System of calculating Special Responsibility Allowances has been suspended for a period of 4 years (2022-23, or until it is next reviewed).

## **SCHEDULE 2**

### **TRAVEL & SUBSISTENCE ALLOWANCES**

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

- (a) the attendance at a meeting of the Authority or of any Committee or Sub Committee of the Authority, or of any other body to which a member has been appointed to by the authority, or of any Committee or Sub Committee of such a body;
- (b) the attendance at any other meeting, the holding of which is authorised by the Authority, or a Committee or Sub Committee of the Authority, or a Joint Committee of the Authority and one or more Local Authority within the meaning of Section 270(1) of the Local Government Act 1972, or a Sub Committee of such a Joint Committee provided that:
  - (i) where the Authority is divided into two or more political groups it is a meeting to which Members of at least two such groups have been invited, or
  - (ii) if the Authority is not so divided, it is a meeting to which at least two Members of the Authority have been invited;
- (c) the attendance at a meeting of any association of Authorities of which the Authority is a Member providing no other attendance / mileage allowance is paid;
- (d) the attendance at a meeting of the Executive or a meeting of any of its Committees, where the Authority is operating executive arrangements;
- (e) the performance of any duty in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises;
- (f) the carrying out of any other duty approved by the Authority, or any duty of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the Authority or of any of its Committees or Sub Committees. For the purpose of this Section approved duties shall include the following:
  - (i) travel in connection with Scrutiny site visits or investigations
  - (ii) authorised attendance at Seminars or Conferences
- (g) In cases of urgency, the Monitoring Officer is authorised to approve duties.

Travelling allowances may not be claimed for political group meetings;

#### **Part 2 - Subsistence**

1. Subsistence allowances for meals and accommodation can be reimbursed to Middlesbrough Members' for duties undertaken outside the unitary authority. This allowance reflects the scheme in place for officers of Middlesbrough Council.
2. Members are entitled to claim subsistence if their duties mean that they are away from the authority for at least 5 hours, preventing them from following their normal meal arrangements AND they have to incur expenditure which is in addition to their normal outlay.
3. Any claims for subsistence costs must be for the actual amount paid (up to the maximum amount claimable) and supporting receipts of this cost must be kept by the Member. The reimbursement of costs associated with alcohol will not be paid under any circumstances.

### **Part 3. Telephone / Broadband Allowance**

1. A member is entitled to a communications allowance of a £15 contribution towards their telephone connections and a £10 contribution towards broadband connections. One claim per household, subject to annual proof of service.

### **Part 4. Co-opted Members Travelling & Subsistence Allowances**

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

## **Section 21 – Codes and Protocols**

This section contains the following Council Codes and Protocols:

1. Member's Code of Conduct
2. Officers' Code of Conduct
3. Protocol for Member / Officer Relations
4. Protocol for Members and Officers on Gifts and Hospitality
5. Filming of Council Meetings

# MEMBER'S CODE OF CONDUCT

**[TO INSERT ON NEXT PAGE]**

# **OFFICERS' CODE OF CONDUCT**



## **OFFICERS' CODE OF CONDUCT**

This Code of Conduct applies to Council employees and sets out the standards of conduct that are expected of them. For the avoidance of doubt, every Officer is an employee of the Council and is subject to this Code of Conduct.

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

## **STANDARDS AND CONDUCT**

### **1.1 What standards apply to Council employees?**

- 1.1.1 Local government employees are expected to provide the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures, and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service, and any impropriety or breach of procedure.
- 1.1.2 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.
- 1.1.3 The Council expects good standards of behaviour from all of its employees towards fellow employees, Councillors, service users and members of the public. The Council recognises the importance of treating everyone with equal dignity and respect and will not tolerate harassment, discrimination or bullying.
- 1.1.4 This policy has been reviewed against the Bribery Act 2010<sup>37</sup>.

### **1.2 What are the general standards of conduct for employees?**

- 1.1.5 Subject to its rights under the conditions of appointment of employees not being prejudiced, the Council does not wish to limit unduly the activities of employees in their leisure time.
- 1.1.6 The Council does, however, require that efficiency and due performance of official duties shall not be impaired by private work in leisure time, and it requires at all times to be satisfied that its interests are not being detrimentally affected in this respect.
- 1.1.7 The Council must be in a position to rebut with confidence any allegation that the integrity of its administration is being impaired because of the leisure time activities of any of its employees. Implicit in this is the requirement that there must be no question of employees undertaking activities in circumstances which might lead to suspicion of undue or improper favour being granted to anyone, including Members or undue or improper influence being exercised, in relation to contracts of any kind, or in relation to any consent, permission, licence, etc., which members of the public seek from the

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<sup>37</sup> [Bribery Act 2010](#)

Council. Conduct outside of working hours which gives rise to criminal prosecution will be considered in accordance with the Council's disciplinary policy and may in exceptional cases lead to dismissal.

### **1.3 What are the Nolan Principles and how do they apply to employees?**

1.1.8 The Seven Principles of Public Life (also known as the Nolan Principles<sup>38</sup>) apply to anyone who works as a public office-holder, including those who are appointed to work in local government.

1.1.9 The Nolan Principles are as follows:

1. Selflessness – Holders of public office should act solely in terms of the public interest.
2. Integrity – Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. Objectivity – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. Accountability – Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. 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.
6. Honesty – Holders of public office should be truthful.
7. Leadership – Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

1.1.10 Council employees should take the Nolan Principles into account when performing all of their duties for the Council.

### **1.4 What are the rules for employees in relation to disclosure of Information?**

1.1.11 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

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<sup>38</sup> [The Nolan Principles](#)

- 1.1.12 Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by law.

## **OTHER EMPLOYMENT AND DECLARATIONS OF INTEREST**

### **1.5 In what circumstances may employees undertake private paid work?**

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

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

- (h) Private work must not be undertaken for any person, firm or company with whom an employee deals in the course of their official duty.
- (i) Council equipment, vehicles or goods must not be used to undertake private work.
- (j) An employee may undertake secondary employment in their own time where it does not create any conflict of interest. Employees proposing to undertake any such secondary employment are responsible for ensuring that the commitments of the job stayed below the level at which efficiency in their work for the Council could be impaired.
- (k) Teaching and lecturing may be acceptable but special safeguards need to be put in place. Where such activity would involve the use of special knowledge gained in the Council's employment, permission must be sought from the employee's Strategic / Assistant Directors; where any fee is received for such work it must be paid over to the Council unless prior arrangements have been agreed otherwise. Similarly, where the activity could have a significant public impact in relation to the Council or its functions, prior approval must be obtained from the employee's Strategic / Assistant Directors.

#### **1.6 In what circumstances may employees undertake unpaid private work?**

If an employee wishes to undertake private work for which no payment or other reward is made, but which would otherwise be prohibited under **section 21.2** above, the employee must inform their Strategic / Assistant Director who may relax some of the conditions in **section 21.4** above, as may be considered appropriate.

#### **1.7 When must an employee declare an interest in a contract<sup>39</sup>?**

- 1.1.13 **Standing Order 22** places the following requirements on employees in relation to a declaration of an interest in a contract:

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

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

***“If it comes to the knowledge of an employee employed, whether under this Act or any other enactment by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he himself is a party), has been, or is proposed to be, entered into by the***

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<sup>39</sup> [Local Government Act 1972, section 117](#)

***Authority or any Committee of the Authority, he shall as soon as practicable give notice in writing to the Authority of the fact that he is interested therein”.***

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

- (a) They, or any nominee of theirs, is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) they are a partner, or are in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

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

NOTE: Where the Act refers to “he” you should read “he” or “she”. Any employee affected by this Act should inform the Monitoring Officer through their Strategic / Assistant Directors.

## **1.8 In what circumstances may employees write and publish books and articles?**

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

- (a) No person employed by the Council in any capacity shall publish, or authorise the publication of, any book or article written by that person either wholly or in collaboration with any other person or persons, in which the title page, preface, or any other part thereof appears to be any indication that the writer is an employee of or is otherwise connected with the Council, unless a statement appears in a prominent position in such book or article to the effect that the opinions are those of the author and do not necessarily represent the opinions of the Council and that the Council accepts no responsibility for the author’s opinions or conclusions.
- (b) No such persons shall, without permission from their Strategic / Assistant Directors make available to a newspaper, solely or jointly with any other person or persons, any communication in which there is an indication that the person is an employee of, or otherwise connected with, the Council.
- (c) **Sections 21.7(a) and (b)** shall not apply to books and articles on purely technical or scientific subjects, and persons employed by the Council shall be at liberty to write and publish books and articles on these subjects and, if they so wish, to indicate therein that they are Officers of, or otherwise connected with the Council, provided that it is clearly stated that the opinions are those of the author and do not necessarily represent the opinions of the Council.

## **1.9 In what circumstances may employees broadcast on a subject connected with the Council?**

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

## **RELATIONSHIPS AND NEUTRALITY**

### **1.10 Are there any restrictions on relationships which may exist between employees?**

The relationship of landlord and tenant shall neither directly nor indirectly be created or allowed between employees of the Council who are in any way responsible for each other's appointment, pay, promotion, discharge or dismissal.

### **1.11 What are the rules for employees in relation to appointments and other employment matters?**

1.1.15 Employees involved in appointments should ensure that these are made based on merit. It would be unlawful for an employee to make an appointment based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a personal relationship outside work with them.

1.1.16 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

1.1.17 Employees who are subject to disciplinary proceedings, or who are the subject of review proposals or consultations, shall not canvass or otherwise seek the support of any Member. Contravention of this **section 21.13.3** shall be subject to the Council's disciplinary policy and may lead to the employee's dismissal.

### **1.12 What is the policy for employees in relation to prevention of corruption?**

1.1.18 The Council's Gifts and Hospitality Policy provides guidance to employees on receiving gifts, invitations and hospitality as well as the provision of gifts and hospitality to those outside the Council.

1.1.19 The Gifts and Hospitality Policy applies to all Council employees and failure to adhere to the Gifts and Hospitality Policy may be dealt with under the Council's disciplinary procedure.

### **1.13 What are the rules for employees in relation to sponsorship?**

1.1.20 Where an outside organisation wishes to sponsor, or is sought to sponsor, a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

1.1.21 Where the Council wishes to sponsor an event or Service, neither an employee nor any partner, spouse or relative of an employee may benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such

interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means gives support in the community, employees should ensure that they give impartial advice and that they have no conflict of interest.

#### **1.14 Should employees be politically neutral?**

1.1.22 Employees serve the Council as a whole. It follows that they must serve all Councillors and not just those of the Majority Group and must ensure that the individual rights of all Councillors are respected.

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

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

1.1.25 Political Assistants appointed on fixed term contracts<sup>40</sup> are exempt from the standards set in paragraph 13 above.

1.1.26 Employees must at all times have regard to and act in accordance with the provisions of the Protocol on Member / Officer Relations in **section [ ]** of this Constitution.

#### **1.15 How should employees separate their client and contractor roles in the tendering process?**

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

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

1.1.29 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

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

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

#### **GENERAL**

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<sup>40</sup> [Local Government and Housing Act 1989, section 9](#)



**1.16 What are the rules for employees' use of technology platforms, websites and online tools?**

1.1.32 The Council's Social Media Policy covers the use of social networking applications, by Council employees, Members and partners or other third parties (including contractors) on behalf of the Council.

1.1.33 The requirements of the Social Media Policy apply to all uses of social networking applications for Council related purposes, regardless of whether the applications are hosted corporately or not. Consideration is also given in the Social Media Policy to Council representatives who are contributing in an official capacity to social networking applications provided by external organisations.

**1.17 Who owns the inventions of employees devised in the course of their employment?**

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

**1.18 What should employees do with lost property?**

Any employee who either finds or has handed to them property which appears to be lost or abandoned on Council premises, must give that property to their manager. Thereafter the property should be dealt with in accordance with the procedures specified by audit. An Officer shall not, under colour of his office or employment, accept any fee or reward whatsoever other than their proper remuneration, which would include handing in any lost property<sup>41</sup>.

**1.19 What is the Council's position of equality?**

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

**1.20 How should employees treat exempt information?**

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

**1.21 How should an employee who is subject to a review behave?**

Employees who are within the scope of any review must not canvass or otherwise seek the support of any Councillor in relation to that review, or their personal circumstances, or those of their colleagues. Employees who canvass Councillors may be subject to disciplinary proceedings under the Council's Disciplinary Policy.

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<sup>41</sup> [Local Government Act 1972, section 117](#)



## PROTOCOL ON MEMBER / OFFICER RELATIONS

Authorisation. Full Council 30.4.02.

### 1.22 What is the role of Officers?

- 1.1.34 Officers are employed by and serve the whole Council. They advise the Council, the Executive, Council Committees and other Council bodies. They are responsible for ensuring that decisions are taken within the law and in accordance with the Constitution, and that decisions are properly recorded and effectively implemented.
- 1.1.35 The Head of Paid Service is responsible for ensuring that Officers fully and effectively support Members. Officers are responsible to the Head of Paid Service and not to individual Members of the Council; no matter what office they hold.
- 1.1.36 All Officers are required by law to be politically neutral, and for Senior Officers this is enforced by law<sup>42</sup>.
- 1.1.37 There are statutory requirements in relation to the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. These responsibilities are detailed in **section [ ]** of the Constitution.
- 1.1.38 The Head of Legal and Governance Services will provide legal advice to the Council and to the Executive.
- 1.1.39 The Head of Democratic Services will ensure that meetings of the Executive are properly planned, serviced, and reported in accordance with legislative requirements and the Executive Procedure Rules.
- 1.1.40 The Head of Democratic Services will ensure that all other meetings of the Council, its Committees and all other Council bodies are properly planned, serviced, and reported in accordance with legislative requirements and the Council Procedure Rules.

### 1.23 How should Officers conduct themselves?

- 1.1.41 Officers should always treat Members with respect and courtesy. Whenever conflict or disagreements arise between Officers and Members, the Officer's line manager must deal with these professionally.
- 1.1.42 It is not enough for Officers to avoid actual impropriety. They must at all times avoid any occasion for suspicion, and any appearance, of improper conduct. Officers must declare to the Head of Paid Service or the Monitoring Officer any relationship with a Member. This includes any relationship, which might be seen as influencing their work as an Officer or influencing the work of the Member. In this context, 'relationship' includes any family business or close personal relationships. It is not possible to define the exact range of relationships that would be considered as close or personal.

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<sup>42</sup> [Local Government and Housing Act 1989](#)

Examples include a family or sexual relationship and regular social mixing, such as holidays or evenings out together.

1.1.43 Close personal relationships between Officers and Members can damage the principles of mutual respect and professionalism. They can also, intentionally or accidentally, lead to the passing of confidential information. Such relationships can cause embarrassment to other Members and Officers and can give rise to suspicion of favouritism. For these reasons, personal relationships must be avoided, especially between Members and Officers who regularly, as part of their normal working role, offer advice or support to Members.

1.1.44 In their working relationships with Members, Officers will:

- (a) behave at all times in a professional manner;
- (b) strive to develop mutual levels of trust with all Members;
- (c) perform their duties efficiently and effectively with impartiality; and
- (d) maintain the highest standards of confidentiality.

# **PROTOCOL ON MEMBER / OFFICER RELATIONS**

## PROTOCOL ON MEMBER / OFFICER RELATIONS

### 1.1 What is the Protocol on Member / Officer Relations?

- 1.1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on the issues which most commonly arise.
- 1.1.2 Together, Members and Officers make up ‘the Council’. They are indispensable to one another and mutual respect and communication between both is essential for good local government. By working together, they bring the critical skills, experience and knowledge required to manage an effective council. Members provide a democratic mandate to the Council, whereas Officers contribute the professional and managerial expertise needed to deliver the Policy Framework. The roles are very different but need to work in a complementary way.
- 1.1.3 This Protocol seeks to reflect the shared corporate values of the organisation and the principles underlying the respective Codes of Conduct, which apply to Members and Officers (the “Codes of Conduct”) and should be read in association with those Codes of Conduct. The shared objective of the Values and the Codes of Conduct is to enhance and maintain the integrity of local government.
- 1.1.4 This Protocol will be relevant in judging compliance with the Codes of Conduct. A breach of the provisions of this Protocol may also constitute a breach of the relevant Code of Conduct.
- 1.1.5 Members and Officers shared the following corporate values:

<b>Joint leadership and Collaboration</b>	<ul style="list-style-type: none"> <li>• Members and Officers have vital roles to play in providing joint leadership which is based on shared knowledge skills and experience.</li> <li>• They should demonstrate visible leadership and act as ambassadors for Middlesbrough Council, with both being committed to public service and making decisions in the public interest.</li> <li>• They should work together to face challenges and constraints i.e., with limited time and budget, difficult targets and deadlines etc., and with everyone working in a spirit of partnership, to turn the Council’s core values and priorities into practical policies for implementation.</li> </ul>
<b>Integrity and respect</b>	<p>Members and Officers should;</p> <ul style="list-style-type: none"> <li>• champion mutual dignity, respect and inclusion;</li> <li>• promote open, honest communications allowing for two-way feedback and for issues to be addressed appropriately;</li> <li>• maintain Informal and collaborative two-way contact between with each other; and</li> <li>• ensure that their conduct is such as to instill mutual support, confidence, and trust. This should be reflected in the behaviour and attitude of each to the other, both publicly and privately, and respecting the roles and duties of each other in</li> </ul>

	all their dealings by observing reasonable standards of courtesy.
<b>Focus on what matters</b>	<ul style="list-style-type: none"> <li>• Members and Officers should work towards the vision and priorities of the Council in delivering quality services to local people, and actively collaborate to deliver shared goals.</li> <li>• Officers should provide clear professional advice and should be in touch, well informed and focused on outcomes.</li> <li>• Members and Officers should work to eliminate poor behaviour and conduct that undermines focus, achievements, and efficiency.</li> </ul>
<b>Creativity</b>	<ul style="list-style-type: none"> <li>• Members and Officers are encouraged to support new thinking by creating a safe environment for people to share opinions and ideas, using information and data effectively to make balanced decisions.</li> </ul>

## 1.2 What are the principles of Member / Officer relationships?

- 1.2.1 Both Members and Officers are servants of the public and are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only as long as their term of office lasts. Officers are responsible to the Council as a whole; their job is to give advice and to carry out the Council's work under the direction and control of the Council and its Committees.
- 1.2.2 The importance of mutual respect, trust and confidence between Members and Officers of the Council is fundamental to this Protocol. This is essential to good local government and will generate an efficient and unified working organisation.
- 1.2.3 Dealings between Members and Officers should observe reasonable standards of courtesy. Neither party should seek to take unfair advantage of their position or exert undue influence on the other.
- 1.2.4 Whilst the duties and responsibilities of Members and Officers are different, both are bound by the same framework of statutory powers and duties. It is fundamental to the efficient and effective operation of the Council that both understand the boundaries of their respective roles and that neither asks the other to step beyond those limits.
- 1.2.5 It is not the role of Members to control the day-to-day management of the Council and they should not seek to give instructions to Officers other than in accordance with the terms of reference of their Committee.
- 1.2.6 Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.
- 1.2.7 Members and Officers must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct, when reaching decisions, to have regard to advice given by

the Chief Finance Officer or Monitoring Officer when they are discharging their statutory duties.

- 1.2.8 Members must respect the impartiality of Officers and do nothing to compromise it, e.g., by insisting that an Officer change their professional advice.
- 1.2.9 Members are not prevented from discussing issues with Officers or promoting a particular point of view. Whilst Officers will consider the views / advice of members they are not, in any way, compelled to provide advice which coincides with the Member's view or preferred position. Any unreasonable requests by a Member to an Officer to change their professional recommendation will constitute unacceptable undue pressure which is not permissible.
- 1.2.10 All Members and Officers have certain basic responsibilities and obligations. There are, however, some Members and Officers who, either because of statute, tradition or decisions of the Council, have extended roles and additional responsibilities. Some Members hold positions of responsibility such as the Leader and Group Leaders, the Chair and Vice Chair of the Council, chairs and vice chairs of Committees/ working groups. The Statutory Officers are the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer. Their roles are defined by statute and within the Council's Constitution.
- 1.2.11 As a matter of general principle, Members and Officers will:
  - (a) deal with one another without discrimination;
  - (b) observe normal standards of courtesy in their dealings with one another;
  - (c) not take unfair advantage of their position;
  - (d) promote a culture of mutual respect;
  - (e) communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings;
  - (f) work together to convert the Council's core values and priorities into practical policies for implementation for the benefit of the Borough;
  - (g) observe any advice relating to publicity during the pre-election period; and
  - (h) refer any observed instances of inappropriate behaviour as necessary.
- 1.2.12 Members must not be personally abusive to, or derogatory of Officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Officers will likewise treat members with respect at all times.
- 1.2.13 Members should not criticise or raise matters relating to the alleged conduct or capability of an Officer at meetings of the Council, any Committee or any other public forum (including on Social Media). This is a long-standing tradition in public service as an Officer has no means of responding to criticism in public.

- 1.2.14 Officers should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a department in a manner which is incompatible with the overall objectives of this Protocol.
- 1.2.15 Nothing in this Protocol shall prevent an Officer from making a protected disclosure under the Whistleblowing Policy.
- 1.2.16 If an Officer feels that they have been treated improperly or disrespectfully by a Member they should raise the matter with the relevant Chief Officer or the Chief Executive as appropriate. In these circumstances, the Chief Executive or Chief Officer will take appropriate action, including approaching the Member concerned, and raise the issue with the Group Leader (if applicable) or refer the matter to the Monitoring Officer where there is a potential breach of a Code of Conduct.
- 1.2.17 When a member feels that they have been treated improperly by an Officer, they should speak to the Officer's line manager in the first instance. If the matter is not addressed, then it can be escalated upwards to the relevant Chief Officer and/or the Chief Executive

### **1.3 How should Members and Officers conduct personal relationships with each other?**

- 1.3.1 Guidance on personal relationships is contained within the Codes of Conduct.
- 1.3.2 Provided these guidelines are observed there is no reason why there should not be an informal atmosphere between Members and Officers outside formal meetings and events.
- 1.3.3 It is clearly important that there should be a close working relationship between Portfolio holders, Opposition Group Leaders and spokesmen, Committee chairs and the Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the individual's ability to deal impartially with others.
- 1.3.4 Both Members and Officers must be aware of the potential for conflicts of interest and take steps to either avoid or mitigate any conflict situation. The Monitoring Officer should be consulted in these circumstances.
- 1.3.5 Group Leaders should promote a positive atmosphere of trust, respect and understanding between Members and Officers and must be prepared to deal with and resolve any reported incidents of breaches of this Protocol by their Group members. In the event of a complaint being made to them under this Protocol, a Group Leader will seek to actively consider the complaint and achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.

### **1.4 What is the roles of Members in the Council?**

- 1.4.1 Collectively, Members are the ultimate policy makers, providing strategic direction, determining the core values of the Council and approving the Policy Framework,

strategic plans and Budget. Their role is complex, requiring them to act simultaneously in the following capacities:

- (a) As Council / Committee members – Members will provide leadership and take responsibility for the Council's decisions and activities. Members have responsibility for the performance, development, continuity and overall wellbeing of the organisation as well as for overseeing governance.
- (b) As representatives – Members are community leaders who interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance. The Member represents the interests of their Ward and is an advocate for their constituents.
- (c) As politicians – Members may belong to a Group represented on the Council and, if so, may express political values and support the policies of the Group to which they belong.

1.4.2 Officers can expect Members to:

- (a) provide political leadership and direction;
- (b) initiate and develop policy to be put before the Council or its Committees;
- (c) work in partnership, understanding and supporting their respective roles, workloads and pressures;
- (d) take corporate responsibility for policies and other decisions made by the Council;
- (e) prepare for formal meetings by considering all written material provided in advance of the meeting;
- (f) leave day-to-day managerial and operational issues to Officers;
- (g) adopt a reasonable approach to awaiting Officers' timely responses to calls and / or correspondence;
- (h) not send emails to multiple Officers regarding the same issue, instead utilising one point of contact where possible;
- (i) use their position with Officers appropriately and not seek to advance their personal interests or those of others to influence decisions improperly;
- (j) respect the dignity of Officers and not engage in behaviour which could be reasonably regarded as bullying or harassing in nature; and
- (k) have regard to the seniority and experience of Officers and, equally, have regard to the potential vulnerability of Officers at junior levels.



- 1.4.3 It is permissible and sensible for Members to seek straightforward factual information from Officers, and to seek the views of appropriately qualified Officers on technical or professional matters. However, if there is anything contentious or which relates to a matter requiring a complex opinion or value judgement, this should be directed to the relevant **Chief Officer** or the Chief Executive.
- 1.4.4 When serving on the Council's Planning and Development Committee or the Licensing Committee, Members must also observe the protocols applicable to those Committees.
- 1.4.5 Whilst Members should always act in the public interest, there is nothing preventing them, as politicians, from expressing the values and aspirations of the Group to which they belong.
- 1.4.6 As a matter of courtesy, it is expected that Members involved in an issue in another Member's Ward will speak with the relevant Ward Member(s) to inform them of their involvement and have regard to the agreed Ward protocol.

## **1.5 What is the role of Officers in the Council?**

- 1.5.1 In broad terms Officers have the following main roles:
  - (a) Setting and implementing strategies to deliver Council policy and further the Council's priorities.
  - (b) Day-to-day operational management of the organisation.
  - (c) Implementing decisions of the Council which are lawful and which have been properly approved.
  - (d) Giving Members advice on issues and the business of the Council to enable them to fulfil their roles. In doing so, Officers will take into account all relevant factors and demonstrate political sensitivity.
  - (e) Managing the Services for which they have been given responsibility within the framework of responsibilities given to them under the Scheme of Delegation.
  - (f) Being accountable for the efficiency and effectiveness of the Services in which they work and demonstrating proper / professional practice in discharging their responsibilities.
  - (g) Providing advice on changes in government policy for which the Council is responsible.
  - (h) Providing professional advice on industry innovation and/or scientific development which may assist the Council in delivering Services.
  - (i) Providing professional advice on innovations by other councils which may be adopted by the Council to improve service delivery.

- (j) Being professional advisers to the Council, its political structures and Members in respect of their Service. As such, their professionalism should be respected by Members and other Officers.
- (k) Initiating policy proposals in line with national government requirements or Council agreed priorities, as well as implementing the agreed policies of the Council.
- (l) Ensuring that the Council always acts in a lawful manner and does not engage in maladministration.
- (m) Supporting members in their role within the Council, save that Officers must not engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on some Officers' involvement in political activities.

1.5.2 Members can expect Officers to:

- (a) undertake their role in line with their contractual and legal duty to be impartial;
- (b) exercise their professional judgement in giving advice and not be influenced by their own personal views;
- (c) have an appreciation of the political environment in which they work and demonstrate political sensitivity;
- (d) assist and advise all parts of the Council; Officers must always act to the best of their abilities in the best interests of the Council and the residents of the Borough;
- (e) be alert to issues which are, or are likely to be, contentious or politically sensitive and to be aware of the implications for Members, the media or other sections of the public;
- (f) maintain due confidentiality;
- (g) behave in a professional manner and comply with the Officers' Code of Conduct;
- (h) be helpful and respectful to Members; and
- (i) respond in a timely manner to telephone calls, email correspondence etc.

1.5.3 In their dealings with the public, Officers should be courteous and act with efficiency and timeliness.

1.5.4 In advising Members, Officers should be able to give honest and impartial advice without fear or favour from Members. Officers must serve all Members, not just those of any majority Group, and must ensure that the individual rights of all Members are respected.

- 1.5.5 Subject to the Council's **Whistleblowing Policy**, Officers should respect a Member's request for confidentiality when dealing with any legitimately delicate matter and Members should respect an Officer's request that a matter be kept confidential. Where confidentiality is requested, any written reply to a Member should not be copied to any other Member without the original Member's permission, except to comply with an unavoidable legal or professional obligation.

## **1.6 What is the role of Members in appointing Officers?**

- 1.6.1 Officers are employed by the Council. Members' role is limited to the appointment of specified senior posts in accordance with the Staff Employment Procedure Rules and should not act outside these roles.
- 1.6.2 If participating in the appointment of Officers, Members should:
- (a) remember that the sole criterion is merit;
  - (b) never canvass support for a particular candidate;
  - (c) not take part where the candidate is a close friend or relative;
  - (d) not be influenced by personal knowledge of candidates; and
  - (e) not favour a candidate by providing them with information not available to other candidates.

## **1.7 How can an Officer seek assistance from a Member as a constituent?**

A Member may be asked for advice and support by an employee who is one of their constituents. Employees are entitled to seek such assistance in the same way as any other member of the public. However, Members should be careful not to prejudice the Council's position in relation to disciplinary procedures or employment matters in respect of an employee. A Member approached for help in such circumstances should seek to direct employees to other sources of help, such as Human Resources, and not become directly involved. If a Member is unsure, the Democratic Services Team can offer advice on who to speak to.

## **1.8 What support services are available to Members?**

- 1.8.1 Members are provided with ICT (information and communication technology) equipment and support services (e.g., printing, photocopying etc.) to enable them to better perform their policy and constituency role as Councillors.
- 1.8.2 Members should not use – and Officers should not provide – such equipment and support services in connection with party political or campaigning activity or for purposes not related to Council business.
- 1.8.3 Section 1.8.2 above does not apply to:
- (a) limited private photocopying, which may be undertaken by Members, provided it is at no cost to the Council; and

- (b) the use by Members of ICT equipment for non-commercial / non-political purposes, provided it does not cause a conflict with, or risk to, Council systems, nor increase the support required from Officers.

**1.9 What considerations should Members and Officers have when making decisions?**

- 1.9.1 Before any formal decisions are taken, Members will have regard to professional advice from officers. They are not obliged to follow that advice, simply to consider it before reaching a decision.
- 1.9.2 Officers taking decisions under delegated powers must consider whether the relevant Group Leader, Committee chair or Ward Member should be consulted based on the issue and taking into account political or corporate sensitivities where:
  - (a) the matter falls under the responsibility of the relevant chair's Committee; or
  - (b) the matter relates to the relevant Ward.
- 1.9.3 Officers must be prepared to justify how decisions taken under delegated powers contribute to the delivery of Council policy and priorities when reasonably required to do so.
- 1.9.4 Where Officers have delegated authority to take certain actions by a Committee in consultation with a Member, it is the Officer who takes the action and is responsible for it. A Group Leader or Committee chair has no legal power to take decisions on behalf of the Council or a Committee neither should they apply inappropriate pressure on the Officer.

**1.10 What is an Officer's obligation in respect of political neutrality?**

Officers are required at all times to serve the whole Council and provide support regardless of political affiliation and will need to exercise judgement in fulfilling this obligation, whilst maintaining the distinction between executive and scrutiny. Members must recognise this Officer obligation.

**1.11 How do Officers work with Portfolio Holders?**

- 1.11.1 Any decision by an individual Portfolio Holder (or collective decision by the Executive Committee) should, except in an emergency, be supported by written advice from the appropriate Officer(s). An Officer's obligation to the whole Council requires that such advice is independent and Members must not seek to suppress or amend any aspect of such professional advice.
- 1.11.2 Reports to Committees will normally be produced by Officers but there may be occasions when a Portfolio Holder or other Member prepares a report. In either situation, the appropriate Officer shall place on record their professional advice to the Committee and ensure that their advice is considered when a decision is taken.

- 1.11.3 Officers may be representing the decisions (internally and externally) of a single party Executive or an individual Portfolio Holder. Other Members will need to recognise that, in so doing, the Officer is representing an executive decision of the Council.

#### **1.12 How should Officers deal with Groups?**

- 1.12.1 There is statutory recognition for Groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body.
- 1.12.2 On the invitation of a Group Leader, a **Chief Officer** or their nominee may attend a Group meeting to give factual information about an issue which is currently being or will shortly be debated by a Council body, provided that:
- (a) the meeting is held on Council premises;
  - (b) notice of attendance is given to the appropriate Head of Service and made available on request to the other Group Leaders.
- 1.12.3 Officer support in these circumstances must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present when matters of party business are discussed.
- 1.12.4 Group meetings, while they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and it is essential that they are not interpreted or acted upon as such.
- 1.12.5 Similarly, where Officers provide information and advice to a Group in relation to a matter of Council business, this is not a substitute for the Officer providing all necessary information and advice to the relevant Council body when the matter is considered.
- 1.12.6 Officers will not normally attend and provide information to any Group meeting which includes non-Council members. Exceptions to this may be approved by the Chief Executive who shall do so in writing and copy the correspondence to all the Group Leaders.
- 1.12.7 In all dealings with Members, in particular when giving advice to Groups, Officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
- 1.12.8 Officers must respect the confidentiality of any Group meeting at which they are present. They must not relay the content of any such discussion to another Group.
- 1.12.9 Any difficulties or areas of uncertainty relating to an Officer giving advice to a Group should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

#### **1.13 How should individual Members engage with Officers?**

- 1.13.1 Any Group Leader, Portfolio Holder, Group spokesperson or Committee chair may request a private and confidential briefing from a Corporate Director on matters of policy which have already been or may be discussed by the Council or within its decision-making or advisory process. All requests should be made to the appropriate **Director / Head of Service** who should invite the Monitoring Officer or their nominee(s) to attend if this is thought appropriate. Briefings shall remain strictly confidential and are not to be shared with other Members unless so permitted by the relevant Member.
- 1.13.2 Except for the confidential policy advice referred to above, where possible, information will be shared among Group representatives. In particular, overview and scrutiny is a cross-party process involving all Groups represented on the Council. Information supplied to chairs of the Overview and Scrutiny Board and any Scrutiny Panel will, therefore, be shared as a matter of course with each Group.
- 1.13.3 Individual Members may request factual information from the Chief Executive (**or the relevant Head of Service**). Such requests must be reasonable and must recognise the need for Officers to maintain the distinction between the **executive and scrutiny** processes. Relevant Cabinet Members, Committee chairs and the Opposition spokesperson will, unless it is of a minor nature, be advised that the information has been given and, on request, will be supplied with a copy.
- 1.13.4 If a **Head of Service** considers the cost of providing the information requested, or the nature of the request, to be unreasonable, they shall seek guidance from the Monitoring Officer as to whether the information should be provided. Where necessary, the Leader in consultation with the Group Leaders, will determine whether the information should be provided.
- 1.13.5 Confidential information relating to, for instance, casework should not normally be sought. If in exceptional circumstances Members wish to discuss confidential aspects of an individual case, then they shall first seek advice from the **Head of Service** and follow appropriate guidance.
- 1.13.6 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided (i.e. in connection with the proper performance of the Member's duties as a Member). This point is emphasised in the Members' Code of Conduct.
- 1.14 What are Officers' obligations in relation to councillors and / or elected representatives from other council?**
  - 1.14.1 Officers may be requested to meet with councillors or elected representatives from other councils or organisations to provide briefings and/or policy advice.
  - 1.14.2 Any Officer requested to attend a meeting of this nature which is not held on a cross-political party basis must obtain the prior authorisation of the Chief Executive who shall inform all Group Leaders of the arrangements.
- 1.15 What support and advice is available to Members in relation to media relations?**

- 1.15.1 A primary intention of the Government in introducing executive arrangements was to raise the public and media profile of Portfolio Holders and to make the Executive directly accountable for decisions taken. It follows that media presentation and media support will reflect this. Advice to the Executive and Portfolio Holders in relation to the media will be provided on a confidential basis if requested.
- 1.15.2 Chairs of the Overview and Scrutiny Board and Scrutiny Panels shall ensure that all media statements relating to the scrutiny function have the support of the relevant Committee / Panel. Any such statements must be consistent with the Council's intent that the scrutiny function shall help to achieve a culture of continuous improvement throughout the Council.
- 1.15.3 The Communications Manager and other Officers will also assist Members who are not Executive Members with their media relations (on a confidential basis if requested). Contact details for the Communications Manager and Communications Officers will be circulated annually to all Members and shared at any other time on request.
- 1.15.4 Any Officer assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Members should not seek assistance from an Officer with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

#### **1.16 What are Officers' obligations in relation to Ward matters?**

- 1.16.1 The Council via the relevant Officer(s), and / or Executive Member, will keep local Members fully informed about significant operational matters on which they may be required to make decisions or which affect their Wards.
- 1.16.2 Senior Officers will ensure that all relevant staff are aware of the requirement to keep local Members informed and that, subject to **section 1.16.3** below, the timing of such information allows local Members to respond appropriately and contribute to relevant decisions.
- 1.16.3 Any notification under this section **1.16** should include sufficient detail to enable the local Member(s) to have a broad understanding of the issue including a summary of the advantages and disadvantages of any proposal and any financial implications.
- 1.16.4 Local Members must be informed by the relevant Officers of the formative stages of policy development as it affects their Ward..
- 1.16.5 Issues may affect a single Ward but others may have a wider impact in which case a wider number of Members will need to be kept informed. The Communications Team will, under the direction of the Chief Executive, share all significant Council news releases which affect the wider Council or a number of Wards with Members when they are published externally.
- 1.16.6 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Wards affected should as a matter of course be invited to attend the meeting.

1.16.7 Whenever the Council undertakes any form of consultative exercise the local Members must be included.

1.16.8 Where a news release specifically relates to a significant issue affecting a particular Ward or geographical area, the local Member(s) will be advised by email, or telephone as appropriate and sent a copy when it is published on the Council's official news channels and/or shared with the local media.

### **1.17 What training is available to Members?**

1.17.1 Members are expected to embrace the principles of personal development and skill training and ensure they allocate time to participate in all the necessary training and personal development activities. This includes the necessary skills to take advantage of the ICT facilities made available to them.

1.17.2 Officers will work with individual Members to produce a personal development plan, seek to ensure resources are available to fulfil the actions agreed in the plan, and provide appropriate training to ensure that all Members have the skills needed to fulfil their duties.

### **1.18 What are the key differences between Members and Officers?**

<b>Members</b>	<b>Officers</b>
Democratically elected and receive an allowance	Employed by the Council and paid a salary
Community Leaders with a focus on their Ward	May have specialist role with a specific focus
Make decisions on behalf of the Borough and the Council	Work for the Borough and the Council
Can bring a political dimension to the role	Impartial – must give unbiased advice and information to all Members equally
Abide by a Members' Code of Conduct	Bound by their employment contract and the Officers' Code of Conduct
Set policy and oversee service delivery	Implement policies and ensure delivery of Services
Only involved in senior officer appointments	Day-to-day management of Officers and Services



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

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

Members and Officers should avoid putting themselves in a position where their integrity is called into question because of any financial or other impropriety. As well as avoiding actual impropriety it is also essential to avoid giving the impression or appearance of impropriety, and this Protocol provides guidance on how Members and Officers can avoid doing so.

### **LEGAL POSITION**

#### **1.1 What is the legal position in relation to gifts and hospitality?**

- 1.1.1 It is an offence for any employee or member of a public body to accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing, or not doing, something in respect of any matter or transaction involving the Council<sup>43</sup>. Such an offence can carry up to 7 years imprisonment.
- 1.1.2 Where such a gift, loan etc. is received by an employee or member of a public body from a person seeking a contract with the Council, then the gift is deemed to have been received corruptly<sup>44</sup>. This has the effect of shifting the balance of proof onto the giver and receiver of the gift i.e., they would have to prove that they did not act dishonestly.
- 1.1.3 The law also provides that an officer of a local authority shall not, under colour of their office, accept any reward or fee other than their proper remuneration<sup>45</sup>.

### **GENERAL PRINCIPLES**

#### **1.2.1 The purpose of this Protocol is to:**

- (a) outline the principles which a Member or an Officer should apply whenever they have to decide whether it would be proper to accept any gift or hospitality;
- (b) establish a procedure for obtaining consent to accept a gift or hospitality, when a Member or Officer considers that it would be proper to accept it; and
- (c) establish a procedure for Members and Officers to declare any gift or hospitality, which they receive, and for accounting for any gift.

#### **1.2.2 This Protocol does not apply to any offer of hospitality that may be provided by the Council.**

#### **1.2.3 Members and Officers must never solicit or invite an offer of a gift or hospitality in connection with their position as a Member or an Officer. Members and Officers should also take care to avoid giving any indication that they might be open to such an improper offer.**

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<sup>43</sup> [Public Bodies Corrupt Practices Act 1889](#)

<sup>44</sup> [Public Bodies Corrupt Practices Act 1889](#)

<sup>45</sup> [Local Government Act 1972, section 117](#)

1.3.1 Members and Officers should never accept a gift or hospitality as an inducement or reward for anything they do as a Member or an Officer.

- (a) Members and Officers must always act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- (b) Further, the Members' Code of Conduct provides that a Member must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage of any person, including themselves.
- (c) The Officers' Code of Conduct deals specifically with the prevention of corruption at [section 21.12](#).

1.3.2 Members and Officers should never accept a gift or hospitality if acceptance might be open to misinterpretation.

- (a) The appearance of impropriety can be just as damaging to the Council and to a Member or an Officer as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. Members and Officers must, therefore, consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Council favours any particular person, company or section of the community or as placing the Member or Officer under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, the Member or Officer must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- (b) Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:
  - (i) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
  - (ii) determination of licensing applications, planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination; and
  - (iii) funding decisions, when the Council is determining a grant application by any person or organisation.

1.3.3 Members and Officers should never accept a gift or hospitality, which puts them under an improper obligation.

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you

to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority. 5. CONSENT REGIMES

The Council has agreed that, provided the principles set out in [section 22.3](#) are not breached, Members and Officers may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another public authority;
- (b) modest refreshment in connection with any meeting in the ordinary course of a Member or Officer's work, such as tea, coffee, soft drinks and biscuits;
- (c) tickets for sporting, cultural and entertainment events, which are sponsored by the Council;
- (d) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. Members and Officers should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;
- (e) a modest working lunch in the course of a business meeting in the offices of a third party where this is required in order to facilitate the conduct of that business;
- (f) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to that authority;
- (g) hospitality received in the course of an external visit or meeting which has been duly authorised by the Council; and
- (h) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Member or Officer deals with the gift strictly as follows:
  - (i) The Member or Officer must, as soon as practicable after the receipt of the gift, pass it to the Monitoring Officer, together with a written statement identifying the information set out in [section 22.5](#) below.
  - (ii) The Monitoring Officer will then write to the person or organisation making the gift thanking them on the Member or Officer's behalf for the gift and informing them that you have donated the gift to the Elected Mayor's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

- 1.5.1 If a Member or Officer wishes to accept any gift or hospitality which does not fall within any of the general consents set out in [section 22.4](#) above, they may only do so if they have previously obtained specific consent in accordance with the following procedure:
- (a) The Member or Officer must make an application in writing to the Monitoring Officer, setting out:
    - (i) the nature of the gift or hospitality and their estimate of its market value;
    - (ii) who the invitation or offer has been made by or on behalf of;
    - (iii) the connection which they have with the person or organisation making the offer or invitation, such as any work that person or organisation has undertaken for the Council in which the Member or Officer has been involved;
    - (iv) any work, permission, concession or facility, of which the Member or Officer is aware that the person or organisation making the offer or invitation may seek from the Council; and
    - (v) any special circumstances, which lead the Member or Officer to believe that acceptance of the gift or hospitality will not be improper.
  - (b) A Member or Officer must not accept the gift or hospitality until they have received the appropriate consent as outlined in this [section 22.5](#).
- 1.6.1 Whenever a Member accepts any gift or hospitality, which they estimate to have a market value or cost of provision of £25 or greater, they must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in [section 22.5.1\(a\)](#) above. A form for this purpose is attached to this Protocol. The Monitoring Officer will retain a copy of any such declaration in a register, which will be available for public inspection.
- 1.6.2 Where a Member is concerned that, even though the value of the gift or hospitality is less than £25, its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, they may make a voluntary declaration in the same manner as set out in [section 22.6.1](#) to ensure that there is nothing secret or underhand about the gift or hospitality.
- 1.6.3 The Members' Office keeps a register of gifts and hospitality and it is the responsibility of the Officer receiving the gift or hospitality to ensure that it is recorded in the register.
- 1.7.1 Gifts made to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council.
- 1.7.2 Members and Officers should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example, in relation to sponsorship

of public musical and theatrical performances and developers' contributions under Section 106 Agreements<sup>46</sup>.

- 1.7.3 If a Member or an Officer receives such an offer on behalf of the Council, they must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance or the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any disbenefits).
- 1.7.4 If the Member or Officer does not have delegated authority to accept the gift, they should report the offer directly to the Monitoring Officer, together with your recommendation as to whether the gift or hospitality can be accepted. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council.
- 1.7.5 If a Member or Officer has any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, they should consult the Monitoring Officer directly.
- 1.8.1 For the purposes of this Protocol "gifts" and "hospitality" shall include:
- (a) the free gift of any goods or services;
  - (b) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those that are available to the general public;
  - (c) the opportunity to obtain any goods or services which are not available to the general public; and
  - (d) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- 1.8.2 References to the "value" or "cost" of any gift or hospitality are references to the higher of:
- (a) the Member or Officer's, or the Council's (as appropriate), estimate of the cost to the person or organisation of providing the gift or consideration; and
  - (b) the open market price which a member of the public would have to pay for the gift or hospitality if it were made available commercially to the public, less the cash sum of any contribution which the Member or Officer, of the Council (as appropriate) would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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<sup>46</sup> [Town and Country Planning Act 1990, section 106](#)

# **FILMING OF COUNCIL MEETINGS**

## FILMING OF COUNCIL MEETINGS

This section sets out the Council's Code of Conduct in relation to the filming, photographing and/or making of audio recordings of the proceedings of Council meetings, meetings of the Executive and Committee meetings.

### 1.1 What rights do members of the public have to record Council meetings?

- 1.1.1 The Council is committed to being open and transparent particularly in relation to the way it conducts business at those meetings which are open to the public.
- 1.1.2 To assist with this, the Council will film the proceedings of Council meetings and, where it is feasible and practical to do so, other meetings which are open to the public.
- 1.1.3 It is intended that the footage will be made available for public viewing via the Council website.
- 1.1.4 The law requires that members of the public and the media are to be allowed to film, photograph and/or make audio recordings at public meetings held by the Council<sup>47</sup>. The Government has provided [guidance](#) for members of the public on how they may access Council meetings.

### 1.2 How should members of the public conduct themselves when recording Council meetings?

- 1.2.1 To assist members of the public with accessing its meetings, the Council has adopted the following guidelines, which are based on common courtesy and respect:
  - (a) subject to the provisions of [section 24.2.2](#) below, all members of the public remain seated during the proceedings of the meeting;
  - (b) any members of the public who prefer not to be filmed should sit or stand to the rear of the public area;
  - (c) those wishing to film a meeting must show appropriate respect for the wishes of the public who do not wish to be filmed;
  - (d) that in seeking to film, photograph or make an audio recording of a meeting, the conduct of the meeting is not disturbed;
  - (e) if it is agreed at the meeting to pass a motion to exclude the press and public because confidential and/or or exempt information<sup>48</sup> is likely to be disclosed, members of the public will be asked to leave the meeting and no filming, photography and/or audio recordings can then take place;
  - (f) that without the express consent of their parents / guardians, the filming of any children who might be in attendance is strictly prohibited;

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<sup>47</sup> [The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#)

<sup>48</sup> [Local Government Act 1972, Schedule 12A](#)



- (g) whilst not a requirement, it would be helpful for anyone intending to film, or wishing to discuss any special requirements, to contact the Members' Office in advance of a meeting to seek advice, guidance and help.

- 1.2.2 There are some limited circumstances, related to items containing either confidential or exempt information, when the filming of public meetings is prohibited. Whilst it is considered that such items will be infrequent, when such matters do arise, the chair of the relevant meeting will be responsible for providing guidance and advice. If for whatever reason someone refuses to stop recording, taking photographs or making an audio recording when requested to do so, the chair will ask the person to leave the meeting. If they refuse to do so, then the chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. Any such arrangements will be in accordance with the disorderly conduct procedures set out in section [ ] of this Constitution.

### **1.3 What else should members of the public bear in mind when recording Council meetings?**

- 1.3.1 There is a presumption that Members and Officers give their consent to be filmed and for their images to be webcast, unless a specific request is made to the Monitoring Officer for an exception to be made in advance of a meeting. The Monitoring Officer will take a view on a case-by-case basis on whether there is sufficient justification for making such an exemption.

- 1.3.2 On each Council meeting agenda and on signs to be displayed inside and outside the meeting room there will be the following notice:

*Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site. You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy.*

*Therefore, by entering the meeting room, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.*

# **APPENDIX 1**

## **CODE OF CORPORATE GOVERNANCE**

## **CODE OF CORPORATE GOVERNANCE**

The Council is committed to achieving effective corporate governance, and has adopted this Code of Corporate Governance, which establishes how good governance will be achieved within the organisation.

### **1.1 What is corporate governance?**

Corporate governance is about the systems, processes and values by which local authorities operate and by which they engage with, and are held accountable to, their communities and stakeholders.

### **1.2 What does good governance look like?**

The Council's code follows principles of good governance set out in guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (Solace)<sup>49</sup>. These are:

- (a) behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law;
- (b) ensuring openness and comprehensive stakeholder engagement;
- (c) defining outcomes in terms of sustainable economic, social and environmental benefits;
- (d) determining the interventions necessary to optimise the achievement of the intended outcomes;
- (e) developing the entity's capacity, including the capability of its leadership and the individuals within it;
- (f) managing risks and performance through robust internal control and strong public financial management; and
- (g) implementing good practices in transparency, reporting, and audit to deliver effective accountability.

### **1.3 What are the benefits of good governance?**

- 1.3.1 Good governance leads to good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes for those who live, work in, or visit Middlesbrough.
- 1.3.2 It enables the Council to effectively pursue delivery of the Mayor's strategic priorities, as well as underpinning plans for delivery with mechanisms for the control and management of risk.

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<sup>49</sup> Delivering Good Governance in Local Government Framework 2016 Edition (CIPFA / Solace)

## 1.4 How is good governance implemented?

1.4.1 The Council has a robust governance framework in place. The table below sets out in high level terms the steps the Council takes to ensure its processes, policies, systems and practices align with the principles of good governance.

1.4.2 The framework comprises of a wide range of policies and procedures, which embed the core principles of the CIPFA / Solace framework into all aspects of the Council's conduct and operation.

CIPFA / Solace principle / supporting principles	To meet these requirements, the Council will:
<p><b>Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rules of law</b></p> <ul style="list-style-type: none"> <li>• Behaving with integrity</li> <li>• Demonstrating strong commitment to ethical values</li> <li>• Respecting the rule of law</li> </ul>	<ul style="list-style-type: none"> <li>• Work diligently and with integrity to achieve the strategic priorities of the Mayor.</li> <li>• Clearly document expected behaviours, and decision-making processes, for Members and Officers, and regularly review these.</li> <li>• Effectively communicate expected behaviours to Members and Officers and provide appropriate training on ethical behaviour.</li> <li>• Ensure Members, Statutory Officers, other key post-holders are able and supported to fulfil their duties and meet their responsibilities.</li> <li>• Ensure compliance by maintaining effective audit committee, internal audit and scrutiny functions, and standards and disciplinary processes.</li> </ul>
<p><b>Ensuring openness and comprehensive stakeholder engagement</b></p> <ul style="list-style-type: none"> <li>• Openness</li> <li>• <i>Engaging comprehensively with institutional stakeholders</i></li> <li>• <i>Engaging with individual citizens and service users effectively</i></li> </ul>	<ul style="list-style-type: none"> <li>• Document and operate a culture of openness and transparency within the organisation.</li> <li>• Maintain a culture of accountability, so that Members and Officers understand for what they are accountable and to whom.</li> <li>• Consult appropriately with stakeholders on the development of its Budget, key plans and Service development.</li> <li>• Maintain effective decision-making processes, ensuring that reports to decision-makers clearly set out stakeholder views where relevant.</li> <li>• Publish all Executive and Committee reports and decision papers, unless there is a legitimate need to preserve confidentiality on the basis of the statutory tests.</li> <li>• Publish on its website information on the Council's strategies, plans and</li> </ul>

CIPFA / Solace principle / supporting principles	To meet these requirements, the Council will:
	finances as well as on outcomes, achievements and challenges.
<p><b>Defining outcomes in terms of sustainable economic, social and environmental benefits</b></p> <ul style="list-style-type: none"> <li>• Defining outcomes</li> <li>• <i>Sustainable economic, social and environmental benefits</i></li> </ul>	<ul style="list-style-type: none"> <li>• Clearly set out its contribution to delivery of the Mayor's strategic priorities and use this as the basis for its overall strategy, planning and other decisions.</li> <li>• Define outcomes through robust consideration of appropriate evidence bases, such as the Joint Strategic Needs Assessment.</li> <li>• Ensure that it delivers defined outcomes on a sustainable basis within available resources.</li> <li>• Effectively identify and manage risks to the achievement of targeted outcomes.</li> <li>• Manage customer expectations effectively when determining priorities to make best use of resources and ensure fair access to Services.</li> </ul>
<p><b>Determining the interventions necessary to optimise the achievement of the intended outcomes</b></p> <ul style="list-style-type: none"> <li>• Determining interventions</li> <li>• Planning interventions</li> <li>• Optimising achievement of intended outcomes</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure reports to decision-makers on Services are fair, balanced, and analyse options and the risks associated with those options, to ensure Best Value is achieved.</li> <li>• Ensure that external and internal stakeholders are engaged with when the Council is determining how Services should be planned and delivered, and the outcome of consultations is considered when decisions are made.</li> <li>• Ensure achievement of social value through Service planning and commissioning.</li> <li>• Ensure that it has clear and robust planning and control cycles for its strategic and operational plans, priorities and targets.</li> <li>• Determine appropriate KPIs to demonstrate Service and project performance and provide Members and Senior Officers with timely updates on these.</li> <li>• Ensure medium- and long-term resource planning is realistic, sustainable and inclusive.</li> <li>• Prepare budgets that are aligned to the organisation's strategic objectives and its MTFP.</li> </ul>

CIPFA / Solace principle / supporting principles	To meet these requirements, the Council will:
<p><b>Developing the Council's capacity, including the capability of its leadership and the individuals within it</b></p> <ul style="list-style-type: none"> <li>• Developing the Council's capacity</li> <li>• <i>Developing the capability of the Council's leadership and other individuals</i></li> </ul>	<ul style="list-style-type: none"> <li>• Regularly review operations to ensure that it is continuing to deliver Services that are effective, including the use of benchmarking and sectoral research.</li> <li>• Work collaboratively and in partnerships where added value can be achieved.</li> <li>• Maintain an effective approach to organisational development to ensure continued capacity and capability to deliver.</li> <li>• Clearly define roles, responsibilities and terms of engagement for Members and Officers.</li> <li>• Maintain and regularly review its schemes of delegations that outline the types of decisions that are delegated and those that are reserved for collective decision-making.</li> <li>• Develop the capabilities of Members and Senior Officers to achieve effective shared leadership.</li> <li>• Ensure there are appropriate structures in place to encourage public participation.</li> <li>• Ensure that systems are in place to ensure that Members and Officers can be both held to account for performance and supported as appropriate.</li> </ul>
<p><b>Managing risks and performance through robust internal control and strong public financial management</b></p> <ul style="list-style-type: none"> <li>• Managing risk</li> <li>• Managing performance</li> <li>• Robust internal control</li> <li>• Managing data</li> <li>• Strong public financial management</li> </ul>	<ul style="list-style-type: none"> <li>• Embed effective risk management within all activities, ensure that progress is reviewed regularly, and that risk is considered as part of decision-making.</li> <li>• Ensure effective performance management of Service delivery and provide Members and Senior Officers with timely updates on Service performance and progress towards outcomes.</li> <li>• Ensure reports to decision-makers on services are fair, balanced, and analyse options and the risks associated with those options, to ensure Best Value is achieved.</li> <li>• Ensure effective, Member-led scrutiny is in place that provides constructive challenge and debate on objectives and policies before, during and after decisions are taken.</li> <li>• Ensure an effective, risk-led internal audit service is in place to provide</li> </ul>

CIPFA / Solace principle / supporting principles	To meet these requirements, the Council will:
	<p>assurance on the overall adequacy and effectiveness of the Council's governance arrangements.</p> <ul style="list-style-type: none"> <li>• Ensure effective counter-fraud and anti-corruption policies and arrangements are in place.</li> <li>• Ensure effective internal control arrangements exist for sound financial management.</li> <li>• Maintain an effective audit committee function.</li> <li>• Ensure effective arrangements are in place to collect, store, use and share data, including processes to safeguard personal data,</li> <li>• Put in place arrangements to ensure that data used to support decision-making is accurate and clear.</li> <li>• Ensure financial management arrangements support both long term outcome delivery and day-to-day operations.</li> </ul>
<p><b>Implementing good practices in transparency, reporting, and audit to deliver effective accountability</b></p> <ul style="list-style-type: none"> <li>• Implementing good practice in transparency</li> <li>• <i>Implementing good practices in reporting</i></li> <li>• Assurance and effective accountability</li> </ul>	<ul style="list-style-type: none"> <li>• Provide reports in plain English wherever possible, ensuring that they are easy to access and interrogate and balance transparency requirements with clarity.</li> <li>• Report regularly on performance, delivery of value for money and stewardship of resources.</li> <li>• Report on compliance with good governance principles within its Annual Governance Statement, including an action plan for continued improvement.</li> <li>• Ensure compliance with good governance principles extends to its partnership arrangements.</li> <li>• Ensure that recommendations made by external audit are addressed.</li> <li>• Ensure that the internal audit service has direct access to Members to enable it to provide assurance with regard to governance arrangements.</li> <li>• Welcome and positively engage with peer challenges, reviews and inspections of its Services.</li> </ul>

## 1.5 How is governance monitored and reviewed?

- 1.5.1 The policies and procedures that underpin the Council's governance framework are reviewed regularly, with revisions presented to Corporate Audit and Affairs Committee for agreement.
- 1.5.2 The Council's alignment with the CIPFA / Solace principles will be reviewed each year within the Annual Governance Statement (AGS) document, which is part of the Council's Statement of Accounts. The AGS will assess the Council's compliance with these principles and outline any improvement actions to be taken as a result of this assessment.



## **APPENDIX 2**

### **GROUP LEADER ROLE PROFILE**

## **GROUP LEADER ROLE PROFILE**

The Council has a Mayor and 46 Members.

The Council's current political composition is:

Labour	21 Members
Conservative	3 Members
Middlesbrough Independent Councillors Association (MICA)	10 Members (independent)
Middlesbrough Independent Group	3 Members (independent)

### **1.1 What is a group leader?**

Each political group represented on the Council has a group leader.

The Mayor is the first citizen of the town; however, the Council recognises the key leadership role played by the leaders of all political groups represented on the Council and the importance of their commitment to cross-party working.

### **1.2 What are the roles and responsibilities of group leaders?**

The role of each group leader is as follows:

- (a) Provide the leadership of a political group providing formal effective, positive and constructive challenge to the Mayor, majority party, and opposition, including the scrutiny of the political administration and policies of the Council.
- (b) When in opposition, provide plausible checks and balances, challenges and alternatives to the ruling political group.
- (c) Liaise with other local and regional representatives as appropriate.
- (d) Monitor the performance of the Council against its Budget, policy and performance plan.
- (e) Notwithstanding political differences, promote the Borough and the Council, encouraging group members to act in a similar manner.
- (f) Canvass a range of views within the group in the formulation of policy.
- (g) Act as principal political spokesperson for the political group.
- (h) Advise the Mayor of the group's position on issues and present alternative suggestions regarding policy / procedure.

- (i) Represent the views of the group in relation to any matter on which Officers seek consultation and guidance.
- (j) Encourage the highest standards of conduct by members of the group and promote compliance with the Members' Code of Conduct.
- (k) Ensure the Monitoring Officer / Head of Democratic Services are advised of the wishes of the group in relation to any amendments to group membership, nominations to serve on Committees or working groups, outside bodies and to advise of substitutes etc.
- (l) Allocate other responsibilities to group members as appropriate.
- (m) Represent the group on relevant formal and informal working groups.
- (n) Assist in ensuring appropriate levels of attendance are maintained by group members.
- (o) Promote effective communication between group members, other political groups and Officers and ensure that communications are conducted in a courteous and respectful manner.
- (p) Establish and maintain effective working relationships with Chief Officers and other Senior Officers and to meet them regularly in order to keep fully apprised of relevant Service issues.
- (q) Encourage a culture of learning and development among group members, including the active participation of group members in briefings, seminars and other learning and development processes.

## **APPENDIX 3**

# **MONITORING OFFICER PROTOCOL**

## **MONITORING OFFICER PROTOCOL**

### **1.1 What is the statutory role of the Monitoring Officer and who holds the position?**

- 1.1.1 The Monitoring Officer is a statutory appointment<sup>50</sup>. This Protocol provides some general information on how those statutory requirements will be discharged by the Council.
- 1.1.2 The responsibilities of the Monitoring Officer rest with the Council's Head of Legal and Governance Services, who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, they will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 1.1.3 A summary list of the Monitoring Officer's statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
- (a) complying with the law (including any relevant Codes of Conduct);
  - (b) complying with any general guidance issued, from time to time, by the Standards Committee, the government and the Monitoring Officer;
  - (c) making lawful and proportionate decisions, and
  - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.
- 1.1.4 In the interests of good working relationships, prior to the issuing of a statutory report<sup>51</sup>, the Monitoring Officer will consult with the Head of Paid Service and the Chief Finance Officer; however, the decision as to whether or not to issue such a report is solely one for the Monitoring Officer.

### **1.2 What are the working arrangements between the Monitoring Officer and Members and Officers?**

- 1.2.1 Having good working relations with Members and Officers will assist the Monitoring Officer in the discharge of their statutory responsibilities and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and their staff) to discharge the Council's statutory and discretionary responsibilities.

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<sup>50</sup> [Local Government and Housing Act 1989, section 5](#)

<sup>51</sup> [Local Government and Housing Act 1989, section 5](#)

1.2.2 The following arrangements and understandings between the Monitoring Officer, Members and Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

- (a) report to the Council and to the Executive in any case where the Monitoring Officer is of the opinion that any decision or proposal of the Council in respect of any reportable incident (being any matter which, in the Monitoring Officer's opinion, has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code<sup>52</sup>;
- (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Committee meetings, Executive and/or Leadership Management Team (or equivalent arrangements);
- (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Committee meetings, Executive and/or Leadership Management Team (or equivalent arrangements);
- (d) carry out any investigation(s) where the Monitoring Officer believes a matter may constitute a reportable incident, and have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of their functions;
- (e) ensure that other Statutory Officers are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and the Chief Finance Officer;
- (h) as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources the Monitoring Officer requires to discharge their statutory functions, and the Council shall ensure that the Monitoring Officer has sufficient resources to enable them to address any matters concerning their statutory functions;

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<sup>52</sup> [Local Government and Housing Act 1989, section 5](#) and [section 5A](#)

- (i) have a special relationship of respect and trust with the Mayor, the Chair of the Council and the chair of the Licensing, Standards, Overview and Scrutiny and Planning Committees, with a view to ensuring the effective and efficient discharge of Council business;
- (j) develop effective working liaison and relationship with the District Auditor and the Local Government and Social Care Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments up to £5,000 for alleged or actual maladministration found against the Council;
- (k) maintain and keep up-to-date relevant statutory registers for the declaration of Members' interests, gifts and hospitality;
- (l) act as Principal Adviser to the Standards Committee;
- (m) give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Standards Committee;
- (n) be responsible for the Council's Complaints, Local Commissioner and Whistle-blowing functions;
- (o) in consultation, as necessary, with the Chair of the Council and the chair of the Standards Committee, defer the making of a statutory report<sup>53</sup> where another investigating body is involved;
- (p) investigate any application for a dispensation and report and recommend to the Standards Committee;
- (q) undertake all statutory Monitoring Officer functions in respect of Parish Councils within the Borough and provide support and advice to such Parish Councils in maintaining probity, including:
  - (i) advice on the requirement for them to adopt a Local Code;
  - (ii) advice on the requirement upon Parish Council Members to sign an undertaking to observe their authority's Local Code within two months of the authority adopting its Local Code;
  - (iii) advice on the requirement for Parish Council Members to notify the Monitoring Officer of any financial or other interests and of any changes in such interests, that such declarations will form part of a public register, means of gaining access to that register, and of any arrangements to ensure that Parish Council clerks are kept informed of any such declarations;

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<sup>53</sup> [Local Government and Housing Act 1989, section 5](#)

- (iv) advice on the need to apply to the Standards Committee for any dispensations and of the arrangements agreed by the Standards Committee for receiving and determining any such applications, and for maintaining a register of such dispensations and advising the applicant and the Council of any dispensations which are granted;
- (v) advice on any provisions under which individual complaints of misconduct by Parish Council Members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committee for dealing with such complaints;
- (vi) advice to individual Parish Council Members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a dispensation, and on any consequent restrictions on the Parish Council Member's participation in consideration of the matter and subject to the approval of the Standards Committee, be responsible with others for preparing any training programme for Parish Council Members on ethical standards and Code of Conduct issues.
- (vii) appoint a deputy or deputies and keep them briefed on any relevant issues that they may be required to deal with in the absence or sickness of the Monitoring Officer (such absence or sickness being more than transitory);
- (viii) after consultation with the Head of Paid Service and the Chief Finance Officer, notify the Police, the authority's auditors and other regulatory agencies of the Monitoring Officer's concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- (ix) obtain at the authority's expense, specialist legal advice, either internally or from an independent external solicitor or barrister, on any matter the Monitoring Officer believes may be a reportable incident.

1.2.3 To ensure the effective and efficient discharge of the arrangements set out in **section 27.2.1** above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

1.2.4 The Monitoring Officer and their deputies are also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, Policy Framework, terms of reference, Scheme of Delegations etc.).

### **1.3 How will the Monitoring Officer deal with reportable incidents?**

1.3.1 The Monitoring Officer will seek to resolve potential reportable incidents by avoiding illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposals. Accordingly, Officers and Members may consult the



Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the Officer or Member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;

- 1.3.2 Where the Monitoring Officer receives a complaint of a potential reportable incident, they shall, in appropriate cases, seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, and that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such import that a statutory report is the only appropriate response;
- 1.3.3 In appropriate cases, the Monitoring Officer may rely upon the Council's existing processes (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
- 1.3.4 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or to avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report of any other Officer;
- 1.3.5 Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer is of the opinion that such is necessary in order to respond properly to a reportable incident.
- 1.3.6 To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure that adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

#### **1.4 How are breaches of this Protocol dealt with?**

Any complaint which indicates that there may have been a breach of the Members' Code of Conduct must be referred to the Monitoring Officer. The Monitoring Officer will contact the Independent Person to discuss the content of the complaint, and to consider whether an investigation is warranted. Complaints of any breach of this Protocol by a Member may be referred to the Standards Committee (to be heard in accordance with the procedure set out in [section 8](#)) and to the relevant political party group leader. Complaints of any breach of this Protocol by an Officer may be referred to the Head of Paid Service or their designated representative.

#### **1.5 What happens if the Monitoring Officer has a conflict in relation to a complaint?**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which they have previously advised the Council, they shall consult the Head of Paid Service who may then either refer the matter to a deputy Monitoring Officer for investigation and to report back to the Head of Paid Service, or request a neighbouring authority to make their Monitoring Officer

available to the Council to investigate the matter and report to the Head of Paid Service and/or the Council as appropriate.

**ANNEX TO THE MONITORING OFFICER PROTOCOL**

This Annex sets out a summary of the Monitoring Officer's functions in consultation with the Head of Paid Service.

<b>Description</b>	<b>Source</b>
Report on contraventions or likely contraventions of any enactment or rule of law.	Local Government and Housing Act 1989, section 5 <sup>54</sup>
Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Local Government and Housing Act 1989, section 5 <sup>55</sup>
To review regularly the Council's Standing Orders, regulations, codes and procedures to ensure they are up-to-date and comply with statutory and best practice requirements.	
To monitor Committee agenda, reports and general decision-making to ensure that no proposals or decisions breach the law or amount to maladministration.	
To advise Members and Officers on propriety issues when required.	
To receive (and consider) copies of certificates.	Local Authorities (Contracts) Regulations 1997 <sup>56</sup>
To monitor and revise the Members' Code of Conduct as necessary, via the chair of the Standards Committee, the Constitution and Members' Development Committee, and the Council.	Local Government Act 2000, sections 51(4) <sup>57</sup> 54(2) <sup>58</sup> as amended by the Localism Act 2011
To establish and maintain a register of Members' (including Co-Opted Members) financial and other interests and make it available for public inspection.	Local Government Act 2000, section 81(1) <sup>59</sup>
To advise the Standards Committee on the granting of dispensations to Members.	Local Government Act 2000, section 81(4), (5) <sup>60</sup> as amended by the Localism Act 2011

<sup>54</sup> [Local Government and Housing Act 1989 \(legislation.gov.uk\)](#)

<sup>55</sup> [Local Government and Housing Act 1989 \(legislation.gov.uk\)](#)

<sup>56</sup> [The Local Authorities \(Contracts\) Regulations 1997 \(legislation.gov.uk\)](#)

<sup>57</sup> [Local Government Act 2000 \(legislation.gov.uk\)](#)

<sup>58</sup> [Local Government Act 2000 \(legislation.gov.uk\)](#)

<sup>59</sup> [Local Government Act 2000 \(legislation.gov.uk\)](#)

<sup>60</sup> [Local Government Act 2000 \(legislation.gov.uk\)](#)

To assist the Standards Committee in the exercise of its functions relating to Parish Councils in its area, including promoting / maintaining Member conduct and advising on the Local Code.	Local Government Act 2000, section 55(1), (2) <sup>61</sup> as amended by the Localism Act 2011
To receive decision notices from interim case tribunals and advise the Standards Committee on their effect / steps to be taken.	Local Government Act 2000, section 78(7) <sup>62</sup> as amended by the Localism Act 2011
To receive decision notices from case tribunals on behalf of the Standards Committee and advise the Committee on steps (if any) to be taken.	Local Government Act 2000, section 79 <sup>63</sup> as amended by the Localism Act 2011
To advise the Standards Committee on steps to be taken by the Council following receipt of a case tribunal's recommendations relating to function / code / Standards Committee.	Local Government Act 2000, section 80(3) <sup>64</sup> as amended by the Localism Act 2011
As a matter of good practice, to report to the Council annually on operation of the internal and external complaints systems, and use of the 'whistleblowing' procedures.	1998 White Paper para 6.42 LGMB guidance, Public Interest Disclosure Act 1998
To consider conducting an annual propriety audit within the Council as a preventative measure.	
Appointment of a deputy.	Local Government & Housing Act 1989, section 5 <sup>65</sup>
Report on resources.	Local Government & Housing Act 1989, section 5 <sup>66</sup>
Receive copies of whistleblowing allegations of misconduct.	Model Code
Advice to Members on interpretation of the Code.	Model Code and Consultation Paper
Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance, paragraph 8.20

<sup>61</sup> [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>62</sup> [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>63</sup> [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>64</sup> [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>65</sup> [Local Government and Housing Act 1989 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>66</sup> [Local Government and Housing Act 1989 \(legislation.gov.uk\)](https://legislation.gov.uk)

New Ethical framework functions in relation to Parish Councils.	Local Government Act 2000, section 83(12) <sup>67</sup>
Compensation for maladministration.	Local Government Act 2000, section 92 <sup>68</sup>
Advice on vires issues, maladministration, impropriety, probity and Policy Framework to all Members.	DETR Guidance
Acting as Lead Officer for the Standards Committee.	

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<sup>67</sup> [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>68</sup> [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

## **APPENDIX 4**

# **STATUTORY OFFICER PROFILES**

## **STATUTORY OFFICER PROFILES**

This section sets out the roles and responsibilities of the Council's Statutory Officers.

### **HEAD OF PAID SERVICE**

#### **1.1 What are the Head of Paid Services individual statutory and constitutional responsibilities?**

It shall be the duty of the Head of Paid Service, where they consider it appropriate to do so, to prepare a report to the Council setting out their proposals on certain matters. Those matters are:

- (a) the manner in which the discharge by the Council of its different functions is co-ordinated;
- (b) the number and grades of staff required by the Council for the discharge of its functions;
- (c) the organisation of the Council's staff; and
- (d) the appointment and proper management of the Council's staff.

A copy of the report should be sent to each Member of the Council.

#### **1.2 Who may be the Head of Paid Service?**

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

#### **1.3 What is the Head of Paid Service's role?**

The Head of Paid Service will:

- (a) have responsibility for the Council's management functions;
- (b) be responsible for establishing a framework for management direction, style, and standards, and for monitoring the performance of the organisation;
- (c) determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers;
- (d) report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers;
- (e) be responsible for the Council's corporate and overall strategic management;
- (f) be responsible for establishing a framework for management direction, style and standards, and for monitoring the performance of the organisation;

- (g) represent the Council on partnership and external bodies, in accordance with the Scheme of Delegations; and
- (h) publish once a year a notice in at least one local newspaper regarding the Forward Work Programme.

## **CHIEF FINANCE OFFICER**

### **1.4 What are the Chief Finance Officer's statutory and constitutional responsibilities in ensuring lawfulness and financial prudence of decision-making?**

The Chief Financial Officer will:

- (a) be responsible for the administration of the financial affairs of the Council;
- (b) be responsible for all financial elements of the corporate governance of the Council;
- (c) after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Full Council or to the Executive in relation to an Executive Function, and to the Council's external auditor, if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully;
- (d) be responsible for setting and monitoring standards and reserve the right to be involved in the appointment of all staff employed in posts designated as requiring a qualified accountant or auditor;
- (e) in compliance with section 114 of the Local Government Finance Act 1998, report to the full Council, Executive and external auditor if the Authority or one of its officers has made or is about to make a decision which involves or would involve the Council in incurring expenditure which is unlawful; has taken or is about to take a course of action which, if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency is on the part of the Council; is about to enter an item of account, the entry of which is unlawful;
- (f) produce a report if it appears that the expenditure proposed by the Council in a financial year is likely to exceed the resources available to meet that expenditure;
- (g) report to the Executive each year on the general financial situation of the Council and upon future financial scenarios in relation to the coming year's budget prospects and long term trends;
- (h) be responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Executive, before full submission to the Council. Each Strategic / Assistant Director shall prepare annually a forward revenue budget in accordance with the criteria specified by the Chief Finance Officer;



- (i) report to the Executive not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his delegated treasury management powers;

## **1.5 What are the Chief Finance Officer's statutory and constitutional responsibilities in relation to the administration of financial affairs?**

### **1.5.1 The Chief Finance Officer will:**

- (a) have statutory responsibility for the financial administration and stewardship of the Council<sup>69</sup>;
- (b) be responsible for: the proper administration of the Council's financial affairs; setting and monitoring compliance with financial monitoring standards; advising on the corporate financial position and on the key financial controls necessary to secure sound financial management; providing financial information; preparing the revenue budget and the capital programme; treasury management, pension and trust funds; and advice on the safeguarding of assets including risk management and insurance;
- (c) be responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Executive and for approval to Full Council. Also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or the Executive;
- (d) nominate a properly qualified member of staff to deputise should they be unable to perform their duties to make statutory reports<sup>70</sup>;
- (e) approve all financial procedures, records, systems and accounts operated through the Council including any changes which are subsequently proposed;
- (f) be responsible for keeping the principal accounting records for all Services of the Council; that the accounts and accompanying reconciliations are properly prepared and presented for audit in accordance with relevant guidelines and statutes; undertake the day-to-day management of the financial work of the Council; provide advice on the retention and safe custody of all accounting records; produce and circulate to relevant officers a set of guidance notes for the production of final accounts; present the Statement of Accounts for the year in question to the Council's external auditors; and retain copies of the Statement of Accounts;
- (g) be informed of the existence of all 'unofficial funds' and issue and update accounting instructions for them where necessary. An 'unofficial fund' is any fund where the income and expenditure does not form part of the Council's accounts but which is controlled wholly or in part by an Officer by reason of

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<sup>69</sup> [Local Government Act 1972, section 151](#); [Local Government Finance Act 1988](#); [Local Government and Housing Act 1989](#); [Accounts and Audit Regulations 1996](#)

<sup>70</sup> [Local Government Finance Act 1998, section 114](#)

their employment by the Council or other employment, e.g. the Governors of a school or other semi-autonomous body;

- (h) be authorised to pay all amounts to which the Council is legally committed;
- (i) make imprest advances to Officers for the purpose of defraying petty cash expenses and issue instructions on the control and operation on the imprest account;
- (j) have the final approval to authorise arrangements for payments to be automatically debited from the Council's bank account;
- (k) set out the arrangements necessary to ensure that all monies due are received and banked promptly;
- (l) along with the Monitoring Officer, take all reasonable steps to obtain recovery of debts;
- (m) be responsible for all Executive decisions on borrowing, investment or financing delegated to the Chief Finance Officer, acting in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities;
- (n) be responsible for the administration and day-to-day operation of the Council's borrowings for all purposes and raise, repay or vary the terms of loans as necessary;
- (o) be the registrar for all stocks, bonds and mortgages of the Council and maintain records of all transactions relating thereto, and of all borrowings of money by the Council;
- (p) be responsible for ensuring that secure arrangements are made for the preparation and holding of pre-signed cheques, stock certificates, bonds and other financial documents;
- (q) ensure that adequate insurance protection is maintained for the Council's assets and operations where it is considered to be cost effective and appropriate;
- (r) be responsible for the negotiation of all the Council's insurance contracts and have delegated responsibility for the maintenance of an adequate and effective internal audit;
- (s) ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and that the risks have been fully appraised before agreements are entered into with external bodies;
- (t) ensure that exemptions to Standing Orders must be recorded, signed by the relevant Strategic / Assistant Director and countersigned by the Chief Finance Officer. All exemptions must be monitored;

- (u) consult, and take advice from, the Monitoring Officer and the Strategic Commissioning and Procurement Technical Manager where contracts to work for organisations other than the Council are contemplated; and
- (v) ensure that Best Value and Partnership Arrangements comply with all United Kingdom and EC Procurement legislation and follow the usual principles in Standing Orders. The advice of the Monitoring Officer, and the Strategic Commissioning and Procurement Officer must be taken.

1.5.2 The Chief Finance Officer shall have the power to make technical amendments to Standing Orders to make them consistent with legal requirements.

**1.6 What are the Chief Finance Officer's statutory and constitutional responsibilities in contributing to corporate management?**

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

**1.7 What are the Chief Finance Officer's statutory and constitutional responsibilities in providing advice / information?**

The Chief Finance Officer will:

- (a) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and the Mayor and support and advise the Mayor, Members and Officers in their respective roles;
- (b) be responsible for issuing advice and guidance to underpin the financial regulations that the Mayor, Members and Officers and others acting on behalf of the Council are required to follow;
- (c) be responsible for advising on effective systems of internal control. Those arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice;
- (d) provide advice on risk with every Strategic / Assistant Director having a responsibility to support these initiatives; and
- (e) provide financial information to the media, members of the public and the community.

**MONITORING OFFICER**

**1.8 What are Monitoring Officer's statutory and constitutional responsibilities?**

1.8.1 Unless the Council determines otherwise, the Monitoring Officer shall be the Council's Chief Legal Officer.

- 1.8.2 The Monitoring Officer shall be responsible for all non-financial elements of the corporate governance of the Council.
- 1.8.3 It is the duty of the Monitoring Officer to prepare a report to the Council with respect to any proposal, decision or omission by the Council, committee, or Officer that could give rise to unlawfulness, maladministration or injustice.
- 1.8.4 In preparing the report there is a duty to consult with the Head of Paid Services and the Chief Finance Officer and then arrange for a copy of it to be sent to each Member.
- 1.8.5 The Monitoring officer cannot be the Chief Finance Officer or the Head of Paid Service.

**1.9 What are the Monitoring Officers responsibilities in relation to the Constitution?**

The Monitoring Officer will:

- (a) provide access to an electronic copy of the Constitution for all Members, Officers and the public via the Council's website, and ensure that any updated version of the Constitution is made available within a reasonable period;
- (b) maintain an up-to-date version of the Constitution;
- (c) monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect;
- (d) be aware of the strengths and weaknesses of the Constitution and make recommendations for ways in which it could be amended including observing meetings; undertaking audit trails of a sample of decisions; recording and analysing issues raised by Members, Officers, members of the public and stakeholders; compare practices with other comparable authorities or national examples of best practice;
- (e) give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules; and
- (f) be responsible for the system of record keeping in relation to all decisions made by Full Council.

**1.10 What are the Monitoring Officer's responsibilities in relation to Standards and governance?**

The Monitoring Officer will:

- (a) after consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to Full Council or to the Executive in relation to an Executive Function if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;

- (b) contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee;
- (c) conduct investigations into complaints against Members and Co-Opted Members, which after consultation with an Independent Person appointed for such purposes, are felt to have breached the Members' Code of conduct and make reports or recommendations in respect of them to the Standards Committee;
- (d) conduct such other investigations as it appears to the Monitoring Officer are necessary to ensure appropriate corporate governance;
- (e) ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible;
- (f) advise on whether decisions of the Executive are in accordance with the Budget and Policy Framework;
- (g) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and the Mayor;
- (h) be responsible for corporate complaints, Ombudsman cases, reviewing the Constitution and Whistle-blowing;
- (i) be responsible for reporting any actual or potential breaches of the law or maladministration to Full Council and/or to the Executive, and for ensuring that procedures for recording and reporting Key Decisions are operating effectively;
- (j) ensure that Executive decisions, and the reasons for them, are made public;
- (k) be responsible for advising the Mayor, all Members and Officers about who has authority to take a particular decision;
- (l) be responsible for referring to Full Council any proposed variations to approved budgets, plans and strategies and which form part of the Policy Framework;
- (m) be responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council; and
- (n) receive written notice from the Mayor on amendments to the Scheme of Delegations of Executive Functions.

## **JOINT STATUTORY AND CONSTITUTIONAL RESPONSIBILITIES**

### **1.11 What are the Statutory Officers' joint statutory and constitutional responsibilities?**

- 1.11.1 The Head of Paid Service, in consultation with the Chief Finance Officer, shall produce and circulate to all relevant Officers a set of guidance notes for the production of the Capital Programme
- 1.11.2 The Monitoring Officer and the Chief Finance Officer will:
- (a) give advice to the Executive, Committees of the Executive, individual executive Members and any Officers or Joint Arrangements discharging Executive Functions on making decisions outside the Budget or the Policy Framework;
  - (b) provide advice to the Overview and Scrutiny Board or a Scrutiny Panel on the process of Call-In of decisions, which if made, would be contrary to the Policy Framework or not in accordance with the Budget; and
  - (c) be responsible for advising the Executive or Full Council whether a decision is likely to be considered contrary to or not wholly in accordance with the Budget.
- 1.11.3 The Head of Paid Service and the Monitoring Officer will be responsible for the system of record keeping in relation to all Full Council decisions.

## **OTHER STATUTORY ROLE PROFILES**

### **STATUTORY SCRUTINY OFFICER**

#### **1.12 What are the statutory and constitutional responsibilities of the Statutory Scrutiny Officer?**

1.12.1 The Statutory Scrutiny Officer shall be the Members and Statutory Services Manager.

1.12.2 It shall be the duty of the Statutory Scrutiny Officer to:

- (a) promote the role of the authority's Overview & Scrutiny Board and Scrutiny Panels;
- (b) provide support to the authority's Overview & Scrutiny Board and Scrutiny Panels, and to the Members of those committees;
- (c) provide support and guidance to:
  - (i) ☐ members of the authority, including members of the Executive of the Council; and
  - (ii) officers of the authority,

in relation to the Council's overview and scrutiny functions.

1.12.3 All of the above shall also apply to any sub-Committee, working party or other arrangement that undertakes Scrutiny function within or on behalf of the Council.

1.12.4 The Scrutiny Officer will not be the authority's Head of Paid Service, monitoring officer or chief finance officer.

1.12.5 The Statutory Scrutiny Officer will:

- (a) have responsibility for the overall management of the Council's Scrutiny functions as set out above;
- (b) be responsible for the corporate and overall strategic development of the Council's Scrutiny functions;
- (c) be responsible for establishing a framework for standards in respect of, and for the monitoring of, the performance of the Council's Scrutiny functions;
- (d) report to Full Council on the manner in which the Council's Scrutiny functions have been discharged; and
- (e) publicise the Council's Scrutiny functions within and outside the Council.

(Local Democracy, Economic Development and Construction Act 2009, s31)

## COMPLAINTS MANAGER

### 1.13 What are the statutory and constitutional responsibilities of the Complaints Manager?

1.13.1 It shall be the duty of the Complaints Manager to:

- (a) ensure that the Council fulfils its requirements in relation to: representations made under the Children Act 1989<sup>71</sup>; complaints made under the Health & Social Care (Community Health and Standards) Act 2003<sup>72</sup>, and the requirements of Part III of the Local Government Act 1974<sup>73</sup>;
- (b) ensure best practice in relations to complaints and representations made to the Council
- (c) promote the Council's complaints scheme (as described in **section 3.4**);
- (d) provide support and guidance to Members, including Executive Members and Officers, in relation to the duties, practices and procedures in dealing with complaints.

1.13.2 The above shall also apply to Independent Panels constituted under the requirements of the Children Act 1989 Representations Procedures (England) Regulations 2006<sup>74</sup>.

1.13.3 The Complaints Manager will:

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<sup>71</sup> [Children Act 1989 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1989/41/section/1)

<sup>72</sup> [Health and Social Care \(Community Health and Standards\) Act 2003 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2003/18/section/1)

<sup>73</sup> [Local Government Act 1974 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1974/24/section/1)

<sup>74</sup> [The Children Act 1989 Representations Procedure \(England\) Regulations 2006 \(legislation.gov.uk\)](https://legislation.gov.uk/uksi/2006/1363/section/1)

- (a) have responsibility for the overall management and overview of the Council's complaints functions as set out above;
- (b) be responsible for the corporate and overall strategic development of the Council's complaints functions;
- (c) be responsible for establishing, updating, maintaining and publishing the framework for standards and practice in relation to complaints (the "Corporate Complaints Procedures");
- (d) be responsible for the monitoring of the performance of the Corporate Complaints Procedures;
- (e) report to full Council on the manner in which the Corporate Complaints Procedures have been discharged;
- (f) publicise the Complaints Procedures within and outside the Council; and
- (g) ensure that the directorates with responsibility for discharging those functions provided for within the Children Act 1989 Representations Procedures (England) Regulations 2006<sup>75</sup> and the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009<sup>76</sup> meet the requirements of those regulations.

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<sup>75</sup> [The Children Act 1989 Representations Procedure \(England\) Regulations 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2006/1024/contents/making)

<sup>76</sup> [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2009/1024/contents/making)



# **APPENDIX 5**

## **PROPER OFFICER FUNCTIONS**

## PROPER OFFICER FUNCTIONS

### 1.1 What is a Proper Officer?

A Proper Officer is an Officer appointed by the Council to carry out certain administrative functions as required by statute including, for example, receiving or giving notices, certifying or authenticating documents, keeping registers, and issuing summonses for meetings.

### 1.2 Who are the Council's Proper Officers and what are their responsibilities?

The Council has appointed the following Proper Officers:

#### 1.2.1 Head of Paid Service:

- (a) Head of Paid Service<sup>77</sup>.

#### 1.2.2 Monitoring Officer:

- (a) Monitoring Officer<sup>78</sup>.
- (b) In relation to any reference in any enactments passed before or during the 1971–1972 session of Parliament (other than the Local Government Act 1972) or in any instrument made before 26th October 1972, to the “Clerk” of a Council or the “Town Clerk” of a Borough, which by virtue of any provision in the said Act, is to be construed as a reference to the Proper Officer of the Council.
- (c) Preparation, publication, distribution, and retention of papers and records of decisions taken by Council, Committees, Sub-Committees, Executive, Individual Executive Members, and Executive Sub-Committees<sup>79</sup>.
- (d) Clerk of the peace of the Borough<sup>80</sup>.
- (e) Returning Officer and Electoral Registration Officer<sup>81</sup>.
- (f) Acceptance of declaration of office of Members<sup>82</sup>.
- (g) For the purposes of the Common Registration Act 1965<sup>83</sup> and the Commons Act 2006<sup>84</sup>.
- (h) Receipt of declarations as to election expenses<sup>85</sup>.

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<sup>77</sup> [Local Government and Housing Act 1989, section 4](#)

<sup>78</sup> [Local Government and Housing Act 1989, section 5](#)

<sup>79</sup> [Local Government Act 1972](#)

<sup>80</sup> [Sheriffs Act 1887, section 6\(3\)](#)

<sup>81</sup> [Representation of the People Act 1983, section 35](#) and [section 8](#) respectively

<sup>82</sup> [Local Government Act 1972, section 83](#)

<sup>83</sup> [Commons Registration Act 1965 \(legislation.gov.uk\)](#)

<sup>84</sup> [Commons Act 2006 \(legislation.gov.uk\)](#)

<sup>85</sup> [Representation of the People Act, section 82](#)

- (i) Receipt of Members' declarations of interests<sup>86</sup>.
- (j) Section 61(2A) Local Government (Miscellaneous Provisions) Act 1976 issue of certificate of decision of Executive.
- (k) Record of Executive Members prejudicial interests<sup>87</sup>.
- (l) Determination of confidential and exempt reports and decisions of Executive<sup>88</sup>.
- (m) Parish trustee<sup>89</sup>.
- (n) Receipt of declaration of resignation of office<sup>90</sup>.
- (o) Convening Council meeting to fill casual vacancy of Chair<sup>91</sup>.
- (p) Receipt of Notice of casual vacancy from two local government electors in the event of a casual vacancy in the office of Councillor<sup>92</sup>.
- (q) Receipt and keeping of record notice of pecuniary interests (Section 96 Local Government Act 1972).
- (r) For the purposes of public access to information<sup>93</sup>.
- (s) Freedom of Information requests<sup>94</sup>.
- (t) Charity functions of offices with existing authorities transferred to holders of equivalent office with new authority<sup>95</sup>.
- (u) Deposit of documents<sup>96</sup>.
- (v) Certification of photographic copies of documents<sup>97</sup>.
- (w) Authorisation of documents<sup>98</sup>.
- (x) Sharing of copies of byelaws<sup>99</sup>.

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<sup>86</sup> [Local Authorities \(Members' Interests\) Regulations 1992](#)

<sup>87</sup> [Local Authorities \(Executive and Alternative Arrangements\) \(Modification of Enactments\) Order 2001](#)

<sup>88</sup> [\(Local Authorities\) \(Executive Arrangements\) \(Access to Information\) \(England\) Regulations 2000](#)

<sup>89</sup> [Local Government Act 1972, section 13\(3\)](#)

<sup>90</sup> [Local Government Act 1972, section 84](#)

<sup>91</sup> [Local Government Act 1972, section 88\(2\)](#)

<sup>92</sup> [Local Government Act 1972, section 89\(1\)\(b\)](#)

<sup>93</sup> [Local Government Act 1972, sections 100B-100F](#)

<sup>94</sup> [Freedom of Information Act 2000](#)

<sup>95</sup> [Local Government Act 1972, section 210\(6\) and \(7\)](#)

<sup>96</sup> [Local Government Act 1972, section 225](#)

<sup>97</sup> [Local Government Act 1972, section 229\(5\)](#)

<sup>98</sup> [Local Government Act 1972, section 234\(1\) and \(2\)](#)

<sup>99</sup> [Local Government Act 1972, section 236\(9\) and \(10\)](#)

- (y) Certification of byelaws<sup>100</sup>.
- (z) Keeping of the roll of freemen<sup>101</sup>.
- (aa) Signature of summonses to Council meetings<sup>102</sup>.
- (bb) Receipt of notices of addresses to send summonses<sup>103</sup>.
- (cc) Making certified copies of resolutions<sup>104</sup>.
- (dd) Receipt a deposit of lists of protected buildings (Schedule 16 para 28 Local Government Act 1972.)
- (ee) Rent Office Service<sup>105</sup>.
- (ff) Receipt of notification from Mayor of the appointment and terms and conditions of appointment of Mayor's assistant (see **section 11.13** of the Constitution)<sup>106</sup>.
- (gg) Receipt of notification from the Mayor of any objections to the proposed appointments made by the Chief Officer Appointments Committee<sup>107</sup>.
- (hh) Proper Officer for the purposes of the Registration Services Act 1953<sup>108</sup>.

#### 1.2.3 Chief Finance Officer:

- (a) Proper administration of financial affairs<sup>109</sup> (Section 151 Local Government Act 1972).
- (b) In relation to any reference in any enactment or instrument to a "Borough Treasurer" or "Treasurer" which, by any such provision is to be construed as a reference to the Proper Officer of the Council.
- (c) Receipt of money due from Officers<sup>110</sup>.
- (d) Declarations and certificates with regard to securities<sup>111</sup>.

#### 1.2.4 Director of Environment and Commercial Services:

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<sup>100</sup> [Local Government Act 1972, section 238](#)

<sup>101</sup> [Local Government Act 1972, section 248](#)

<sup>102</sup> [Local Government Act 1972, Schedule 12, paragraph 4\(2\)\(b\)](#)

<sup>103</sup> [Local Government Act 1972, Schedule 12, paragraph 4\(2\)\(b\)](#)

<sup>104</sup> [Local Government Act 1972, Schedule 14, paragraph 25\(7\)](#)

<sup>105</sup> [Rent Act 1977, section 63](#)

<sup>106</sup> [The Local Authority Elected Mayor's and Mayor's Assistants Regulations 2002](#)

<sup>107</sup> [The Local Authorities \(Standing Orders\) \(England\) Regulations 2001](#)

<sup>108</sup> [Registration Service Act 1953 \(legislation.gov.uk\)](#)

<sup>109</sup> [Local Government Act 1972, section 151](#)

<sup>110</sup> [Local Government Act 1972, section 115](#)

<sup>111</sup> [Local Government Act 1972, section 146\(1\)\(a\) and \(b\)](#)

- (a) To receive applications for assistance with Ordnance Survey mapping<sup>112</sup>.
- (b) In relation to any reference in any enactment or instrument to a “Borough Engineer”, “Borough Surveyor”, “Surveyor” or “Head of Engineering”, which by any provision of the Local Government Act 1972<sup>113</sup>, is to be construed as a Proper Officer of the Council.
- (c) Traffic Manager<sup>114</sup>.

1.2.5 Director of Public Health and Public Protection:

- (a) In relation to any reference in any enactment or instrument to a “Sanitary Inspector” or “Public Health Officer”, which by any such provision is to be construed as a reference to the Proper Officer of the Council.
- (b) Representation of unfit houses (Section 606 Housing Act 1985).
- (c) Receipt of application for a justices’ licence<sup>115</sup>.

1.2.6 Director of Social Care and Health Integration:

- (a) The “director of social services” for the purposes of the Local Authority Social Services Act 1970, section 6<sup>116</sup>.

1.2.7 Executive Director of Children’s Services:

- (b) The “director of children’s services” for the purposes of the Children Act 2004, section 18<sup>117</sup>.

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<sup>112</sup> [Ordnance Survey Act 1841, section 1](#)

<sup>113</sup> [Local Government Act 1972 \(legislation.gov.uk\)](#)

<sup>114</sup> [Traffic Management Act 2004](#)

<sup>115</sup> [Licensing Act 1964, Schedule 2](#)

<sup>116</sup> [Local Authority Social Services Act 1970 \(legislation.gov.uk\)](#)

<sup>117</sup> [Children Act 2004 \(legislation.gov.uk\)](#)

## **APPENDIX 6**

# **COUNCILLOR CALLS FOR ACTION PROCEDURE AND GUIDANCE**

**For consideration by the Constitution and Member Development Committee:**

1	Endorsement of the approach taken to the review of the Constitution.	The approach was approved by the Governance Improvement Constitution Task and Finish Working Group and the Monitoring Officer.
2	Endorsement of the proposed structure of the new Constitution (order of contents).	
3	Endorsement of the removal of statutory references in most cases and the introduction of footnotes to relevant provisions.	This is part of the approach to making the Constitution more accessible.
4	Views on whether legislation footnotes should be in the public facing version of the Constitution.	There is an argument that should be included so that Members, Officers and members of the public can easily find statutory provisions. However it would make the document less readable.
5	Views on whether Statutory Office Role Profiles are required as Appendices.	<p>These Role Profiles set out statutory position (which is available in the legislation) and the main parts of their functions. The other elements are already covered in the Officers section of the Constitution.</p> <p>This simpler approach would reduce future risk of updates not being made in all relevant places.</p>
6	Views on whether role descriptions should be included for key Member positions (e.g. Chair, Committee chair).	Denbighshire includes these (see <a href="#">section 19.3(b)</a> of their Constitution) and they provide more colour around the role, as well as expectations beyond pure procedure.
7	Views on how Councillor Calls for Action should be dealt with.	The current provisions are quite difficult to follow. A simpler approach would make these more accessible. As an example, please see Wiltshire's version <a href="#">here</a> .
8	Views on whether the Financial and Contract Procedure Rules and the Scheme of Delegations should be included in the main Constitution document.	These are currently standalone documents that sit outside the main document. It may be useful to have all of the Constitutional provisions in one document. However, see 10 below.

9	Views on whether the summary document of the Member / Officer Protocol should be linked in the Constitution.	<p>Consideration needs to be given to whether this is an internal document or whether it should be public facing?</p> <p>There is an argument to say that it is just relevant to Members and Officers and should remain in that circulation to avoid any confusion.</p>
10	Views on how the Constitution should be published on the Council's website.	<p>The Constitution should be published as a whole document. However, it may also aid accessibility if individual sections are published as separate clickable links.</p> <p>There is an additional administrative burden associated with this in terms of updating the documents going forward, but the accessibility benefit may outweigh this.</p> <p><a href="#">Sandwell</a> is a good example of how this might look.</p>
11	Views on the process for approving the Constitution.	<p>Will another meeting of this Committee be required?</p> <p>How and when will the Constitution be presented to Full Council?</p>