MIDDLESBROUGH BOROUGH COUNCIL

CONSTITUTION

Made under the

Local Government Act 2000

September 2025

Contents

1 Introduction 5
1.2 How does the Council operate? 5
1.3 How are decisions made? 6
2 The Constitution 12
3 Citizens and the Council 32
4 Full Council 34
4.8 Council Procedure Rules 38
5 Members 65
5.10 Members' Scheme Of Allowances 69
Protocol for Members and Officers on Gifts and Hospitality 83
6 The Mayor and the Executive 89
6.17 The Executive Procedure Rules 93
7 Overview And Scrutiny 101
7.6 Overview And Scrutiny Procedure Rules 105
Councillor Call For Action Procedure and Guidance 118
8 Standards 125
8.9 The Member Code of Conduct 129
9 Officers 142
9.10 Officer Employment Procedure Rules 151
Protocol for Statutory Chief Officers responsible for Governance 154
9.11 Officer Code of Conduct 161
Protocol On Member / Officer Relations 172
9.12 Monitoring Officer Protocol 188
10 Responsibility For Functions 194
Part A Introduction 195
Part B Non-executive Functions 200
10.6 Full Council 201
10.7 Audit Committee 205
10.8 Chief Officer Committee 210
10.9 Constitution and Member Development Committee 212
10.10 Corporate Affairs Committee 213
10.11 Licensing Committee 214
10.12 Overview and Scrutiny Board and Committees 219
10.13 Planning & Development Committee 220
10.14 Staff Appeals Committee 222
10.15 Standards Committee 223
10.16 Teesside Pension Fund Committee 224

10.17 You Matter to Us – Corporate Parenting Committee 228
10.18 Non-executive joint arrangements 230
Part C: Responsibility for Executive Functions 239
10.19 Mayor 240
10.20 Executive 241
10.21 Portfolio Holders 243
10.22 Executive Committees and Sub-committees 246
10.23 Executive Joint Arrangements 248
Part D: Scheme of Delegation of Functions to Officers 250
10.24 Introduction 251
10.25 Chief Officer delegations 255
10.27 Statutory Officer delegations 272
10.28 Proper Officers 274
11 Alternative Service Delivery Vehicles 284
12 Finance, Contracts and Legal Matters 296
12.6 Financial Procedure Rules 297
12.7 Procurement and Contract Procedure Rules 349
13 Decision-Making 397
14 Access To Information Procedure Rules 407
15 Budget and Policy Framework Procedure Rules 421

Figures:

Figure 1: Democratic Structure of the Council 5
Figure 2: Councillor Call for Action (CCfA) 120
Figure 3: Statutory Report Process 160
Figure 4: Information Governance framework 323
Figure 5: Procurement Process 394

Tables:

Table 1: Local Democracy Engagement Timetable 10
Table 2: Special Responsibility Allowances 75
Table 3: Disclosable Pecuniary Interests 139
Table 4: Other Registerable Interests 141
Table 5: Statutory Chief Officers 143
Table 6: Statutory Officers 149

Table 7: The differences between Officers and Members 173
Table 8: Local Choice Functions 203
Table 9: Table of Licensing Functions 215
Table 10: Proper Officer Functions 274
Table 11: Financial Limits Annex 348
Table 12: Authorisation of Exemption from Procurement and Contract Procedure Rules 388
Table 13: Goods and Services 390
Table 14: Light Touch Regime 391
Table 15: Works 392
Table 16: Categories of Exempt Information 411

1 Introduction

This section provides a summary of the Constitution and explains how the Council operates. It summarises the main provisions of this Constitution and the detailed provisions in relation to a particular Council function should always be referred to.

Capitalised words used in this section 1 (and throughout the Constitution) 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. The Constitution is generally adopted, and amended, by the Full Council.

1.1.2 The Constitution is divided into sections which, where possible, group relevant rules and procedures governing the Council's business together, cross referencing as appropriate to reduce duplication.

1.2 How does the Council operate?

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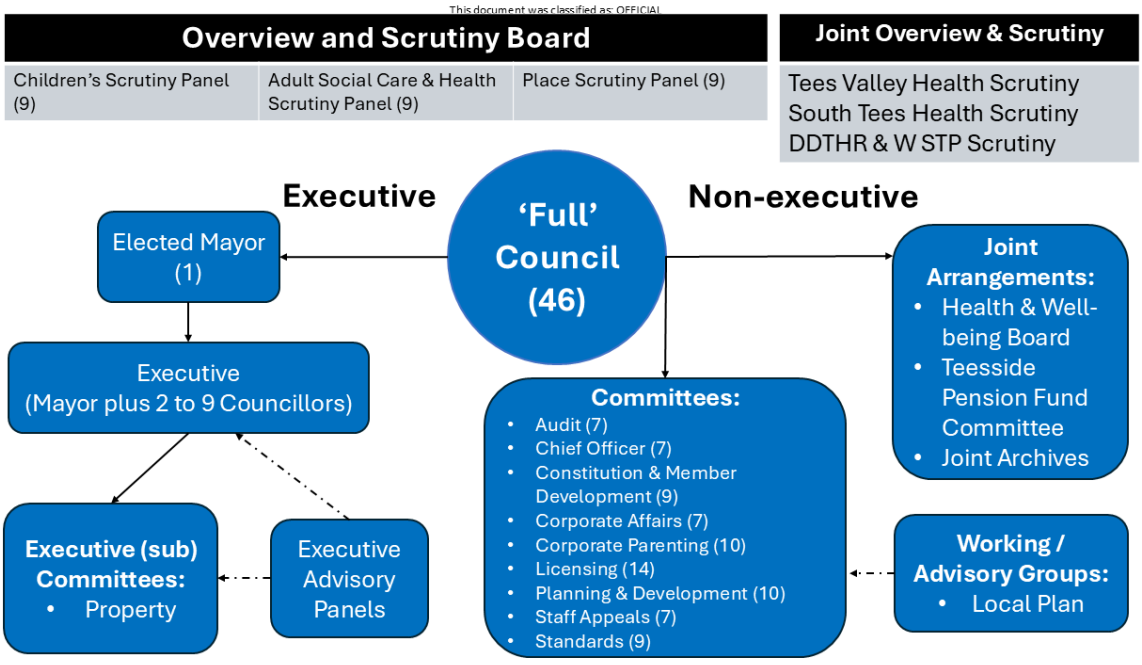

Figure 1: Democratic Structure of the Council

1.2.1. The Council is composed of an elected Mayor and 46 Councillors. The Full Council decides the Council's overall policies and Budget each year (see further the Budget and Policy Procedure Rules at Section 15). It also appoints various Committees to undertake functions it delegates to them. It operates in accordance with the Council Procedure Rules.

1.2.2. 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. This usually takes place on the first Thursday in May every 4 years. The last election was in 2023.

1.2.3. The Mayor and the Councillors are collectively known as "Members" of the Council. Members agree to follow a Code of Conduct (see paragraph 8.9) to ensure high standards in the way they undertake their duties. The Council's Standards Committee advises Members on the Code of Conduct (see Section 8) and ensures that they receive training on its requirements. Members are required to adhere to the Code of Conduct when fulfilling their duties.

1.2.4. The Mayor appoints an Executive of up to nine councillors, one of whom will be appointed by the Mayor as the Deputy Mayor. The Executive works in accordance with the provisions of Section 6, which includes the Executive Procedure Rules (see paragraph 6.17).

1.2.5. Council meetings are normally open to the public and operate in accordance with the Council Procedure Rules (paragraph 4.8) and the Access to Information Procedure Rules at Section 14.

1.3 How are decisions made?

1.3.1 The Council's Budget and Policy Framework is set by the Full Council in accordance with the Budget and Policy Framework Rules set out in Section 15. The Mayor and Executive may make proposals to Council in relation to the Budget and other plans and strategies for adoption by Council.

1.3.2 The Mayor is responsible for the Council's main executive decision-making powers and the overall delivery of Council services (see Section 6). The Mayor decides the extent of the Executive's decision making role and has delegated to it most of the Council's day-to-day decisions.

1.3.3 The Executive is held to account by the Council's scrutiny process (see Section 7). The Executive should make decisions in line with the Council's overall budget and policies and any departure from this needs to be approved by the Council.

1.3.4 So far as possible, major decisions are published in the Executive's Forward Work Programme and made at meetings in accordance with the Access to Information Procedure Rules at Section 14 of this Constitution.

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

1.4.1 The Full 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 two-thirds majority.

1.5 How are Council decisions scrutinised?

1.5.1 The Overview and Scrutiny Board and any sub-committees it appoints, which are referred to as Scrutiny Panels, scrutinise decisions. 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 Overview and Scrutiny Board can "call-in" a decision made by the Executive before it is implemented in accordance with the provisions of the Overview and Scrutiny Procedure Rules set out in Section 7. The Overview and Scrutiny Board can then consider whether the decision is appropriate and make recommendations to the Executive.

1.5.3 The Executive may also consult the Overview and Scrutiny 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 – see further Section 9 and Section 10 Part D. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Protocols relating to the relationships between Officers, Councillors and the Mayor can also be found at Section 9.

1.7 What are the Nolan Principles and when do they apply?

1.7.1 Everyone in public office, at all levels, who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers, should uphold the Seven Principles of Public Life.

1.7.2 These principles are commonly referred to as the 'Nolan Principles'. They are:

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 disclose 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. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

1.8 What are the rights of citizens in relation to the Council?

1.8.1 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) in accordance with the Council Procedure Rules (see paragraph 4.8.4) ask questions to, and 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, except where, for example, personal or confidential matters are being discussed;

(h) in accordance with the Access to Information Procedure Rules (Section 14), 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 exhausting the Council's complaint 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.

1.8.2 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.

1.8.3 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 or by email to councilquestions@middlesbrough.gov.uk and refer to the refer to the Access to Information Procedure Rules at Section 14.

1.8.4 Section 3 of the Constitution sets out citizens' rights in more detail.

1.9 Reasonable Adjustments

1.9.1 The Council is mindful that some individuals need additional support to engage with democratic processes, which can be complex. It will therefore accommodate, as far as reasonably possible, adjustments in respect of the application and interpretation of the Constitution.

1.9.2 Individuals can discuss potential reasonable adjustments by contacting the Democratic Services team.

1.10 What are the timescales for involvement with local democracy?

Table 1 below summarises the most common timescales for democratic processes to aid engagement. However, in the event of conflict, the timescales provided within the relevant procedure rules of this Constitution shall prevail.

Table 1: Local Democracy Engagement Timetable

Process	Timescale	Source
Notice of meeting	5 clear days before the meeting	Access to Information Procedure Rules: 14.5
In respect of Council meetings		
Member Questions on notice	7 clear days before the meeting	CPR: 4.8.15(e)
Member Questions without notice	None	CPR: 4.8.15(k)
Member Question with Prior Indication	By 5.00 pm the day before the meeting	CPR: 4.8.15(h)
Public Questions	7 clear days before the meeting	CPR: 4.8.15(b)
Petition	7 clear days before the meeting	CPR: 4.8.32
Motions on Notice	9 clear days before the meeting	CPR: 4.8.23(a)
Amendment to Motion on Notice with financial impact	3 clear days before the meeting	CPR: 4.8.29(c)
Amendments to a Motion on Notice	2 clear days before the meeting	CPR: 4.8.29(b)
Notification of Substitution	24 hours before the meeting	CPR: 4.8.40
In respect of Executive meetings		
Member Questions on notice	By 5.00 pm 3 clear days before the meeting	EPR: 6.17.15(a)
Public Questions on notice	By 5.00 pm 3 clear days before the meeting	EPR: 6.17.14(a)

Request for call in	By 4.00 pm 5 clear days after the publication of the decision	O&SPR: 7.6.21(a)

2 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 and 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. The Constitution is adopted and amended by Full Council.

2.1.2 The Chair of the Council, in consultation with the Monitoring Officer, will decide how this Constitution, and in particular the Council Procedure Rules, shall be applied. The ruling of the Chair of the Council is final and shall not be challenged at any meeting of the Council.

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:

"Address / Principal Office"	the Council's address for correspondence is: PO Box 500, Middlesbrough TS1 9FT Council meetings will usually take place at its 'principal office': Town Hall, Middlesbrough TS1 9FX
"Annual Governance Statement / AGS"	A key document supporting the governance framework of the Council that is produced each year following a review of the governance arrangements. It is required to be published as part of the Annual Accounts each year.

“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.
“Award Criteria”	The criteria by which a successful Quotation or Tender is to be selected.
“Award Procedure”	The procedure for awarding a contract or a one-off purchase.
“Background papers”	the papers used by a report author in compiling a report for decision, which must be available for 4 years to anyone wishing to inspect them.
“Ballot”	a secret vote requested by half the Members present at a meeting.
“Best Value”	the duty placed on the Council to obtain a competitive price for goods, services and works of appropriate quality, in line with statutory duties[1].
“Bidder”	any person who asks or is invited to submit a quotation or tender and / or a successful supplier with whom the Council has or intends to enter into a contract.
“Bond”	an insurance policy. If the Bidder does not do what is has promised under contract with the Council, the Council can claim from the insurer the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against a level of cost arising from the Contractor’s failure.

[1] Local Government Act 1999

“Borough”	the borough of Middlesbrough.
“Budget”	the overall annual revenue budget and periodic capital budget approved by Full Council. 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, its capital expenditure and the setting of virement limits. The Budget is the first year of the Medium Term Financial Strategy (‘MTFS’).
“Budget Holder”	an Officer who has delegated responsibility for an allocated budget, at either directorate, sub-division of service, or cost centre level in line with the Council’s chart of accounts.
“Budget Meeting”	an ordinary meeting of the Council with a limited agenda to consider the budget and ancillary matters, usually taking place in February.
“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[2].
“Call-in”	A mechanism which allows Overview and Scrutiny to examine and challenge an Executive decision before it is implemented.
“Capital Programme”	Identifies agreed capital projects and their cost over time; linked to the Capital Strategy.

[2] The Byelaws (Alternative Procedure) (England) Regulations 2016

“Capital Strategy”	strategy required by CIPFA’s Prudential Code to demonstrate how the Council’s capital expenditure, capital financing and treasury management activity contribute to the provision of desired outcomes and take account of stewardship, value for money, prudence, sustainability and affordability.
“Chair of the Council”	the Councillor elected by the Full Council as the Chair of the Council in accordance with the Council Procedure Rules at Section 4.
“Chief Financial Officer / Section 151 Officer”	the Officer responsible for the administration of the Council’s financial affairs[3]. The duties of the Chief Financial Officer, a Statutory Chief Officer role, are set out at Section 9. The Corporate Director of Finance has been designated as the Council’s Chief Financial Officer.
“Chief Officer”	Senior officers of the Council including the Statutory Chief Officers and the following non-statutory Chief Officers: (a) a person for whom the Head of Paid Service is directly responsible; (b) a person who is required to report directly, or is directly accountable, to the Head of Paid Service for the majority of their role; and (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

[3] Section 151 of the Local Government Act 1972

“CIPFA”	the Chartered Institute of Public Finance and Accounting – the professional accountancy body which regulates public financial management to improve public services and ensure the responsible use of public funds.
“Clear / working days”	full normal working days, excluding weekends, public holidays, the date on which notice of a meeting or decision is given and the day of the meeting or decision itself.
“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.
“Complainant”	A person who complains that a Member of the Council has breached the Member Code of Conduct (see section 8).
“Confidential information”	Information either given to the Council by the Government on terms which forbid its public disclosure, or which cannot be publicly disclosed by Court Order. See also ‘Exempt Information’ below.
“Contracting Decision”	Any of the following decisions: - composition of Approved Lists; - withdrawal of Invitation to Tender; - whom to invite to submit a Quotation or Tender; - shortlisting; - Contract Award; - Termination of a contract
“Constitution”	The document setting out how the Council operates, how decisions are made and the procedures that have to be followed.

“Co-Opted Member”	a person who is not a Councillor but who sits on any Committee.
“Corporate Landlord”	the Officer designated to act as the Council’s landlord and fulfil its property management functions in relation to Council-owned land and buildings.
“Council”	Middlesbrough Borough Council.
“Councillor”	a person elected to the Council to represent a Ward within the Borough, who is also a Member. For the avoidance of doubt, the Mayor is not a Councillor but is a Member.
“Council Procedure Rules”	the procedural rules for running the non-executive functions of Council as set out in Section 4, apart from where alternative rules apply.
“Council Tax”	a tax on domestic properties collected by local authorities in Britain, based on the estimated value of a property by value-based bandings set by the Valuation Office Agency (‘VOA’).
“Delegation”	Formal authorisation for a committee, executive portfolio holder, joint committee or officer to take an action which is the ultimate responsibility of the Council or the Mayor.
“Deputy Chief Officer”	a person who, as respects all or most of the duties of their post, is required to report directly, or is directly accountable, to one or more of the statutory or non-statutory chief officers.
“Directorate”	the group of services managed by a Director / Chief Officer.
“Directorate Budget”	the budget of a particular Directorate, which forms part of the Revenue Budget and Capital Programme, and may comprise one

	or more subdivisions of service and cost centres.
“E-tendering Portal”	the Council’s electronic tendering system used for publishing Invitations to Tender and Invitations to Quote and for submission of bids by bidders.
“Executive”	a group of at least two, but not more than nine, Members selected by the Mayor to exercise Executive[4] Functions and take the most strategic decisions that are not made by Full Council.
“Executive Decision”	any decision made by the Executive to exercise or refrain from exercising an Executive Function, including any decision made by an individual or Member Body to which Executive Decision-making powers have been delegated.
“Executive Function”	any function of the Council which is either discharged by the Mayor or delegated by the Mayor to the Executive, an Executive Committee, an individual of the Executive, an officer or another local authority. For the avoidance of doubt: - regulatory functions (including planning, licensing and building control) are not Executive Functions; - Executive functions cannot be undertaken by the Council.
“Executive Member”	a Councillor appointed by the Mayor as a member of the Executive.
“Executive Portfolio”	the particular area for which an Executive Member is responsible, as designated by the Mayor from time to time. See further

[4] Local Government Act 2000

	Section 6 (Executive) and Section 10, Part C (Executive Scheme of Delegation).
“Executive Procedure Rules”	the rules of procedure governing the activities of the Executive, set out at Section 6, apart from where alternative rules apply.
“Exempt information”	Information falling into one of 7 categories set out in Schedule 12A to the Local Government Act 1972 (as amended) which usually cannot be publicly disclosed. See the Access to Information Procedure Rules in Section 14.
“External Audit”	independent evaluation of the Council’s financial statements and Value for Money (‘VfM’) arrangements by a third party “External Auditor”.
“Financial Limits Annex”	the document setting out the limits that apply to certain financial decisions made by or on behalf of the Council at Section 12.
“Fixed Asset Register”	the register of fixed assets maintained by the Council in accordance with paragraph 12.6.51 and which forms the basis of the Council’s accounting for capital purposes.
“Forward Work Programme”	the document setting out the Executive Key Decisions to be taken by during the period of the forward work programme (Key Decisions are set out in more detail in Section 6).
“Framework”	an agreement under which a long-term relationship is established between local authorities (or other public sector bodies) and approved bidders.
“Full Council”	the body where all Councillors and the Mayor act to exercise the non-executive functions of the Council.
“Functions”	The activities carried out by a local authority pursuant to their powers and duties, which includes the power to do anything which is

	calculated to facilitate, or is conducive or incidental to, the exercise of a function.
"Governance Statutory Chief Officer"	The three senior officers designated by the Council who together form a governance golden triangle ensuring that the Council operates lawfully and effectively. These officers have additional statutory employment protections as a result of the vital nature of their responsibilities. They are: - Head of Paid Service; - Monitoring Officer; - Chief Finance Officer; but see also Chief Officers and Statutory Chief Officers.
"Government Procurement Agreement"	the successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are: USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
"Group / Political Group"	a group of two or more Councillors, usually but not necessarily from the same political party, or who have some other common interest, who form a group[5].
"Group Leader"	the leader of any formally constituted Group within the Council.
"Group Whip"	a Councillor appointed by a political group to ensure discipline amongst other members of the same political group.
"Head of Paid Service"	the most senior Officer, appointed by law, who is responsible for the management and

[5] Local Government (Committees and Political Groups) Regulations 1990

	operation of the Council. The duties of the Head of Paid Service, a Statutory Chief Officer Role, are set out at Section 9. The Chief Executive has been designated as the Council's Head of Paid Service.
"Head of Service"	the head of a Service area within the Council, usually a Deputy Chief Officer who reports to a Director.
"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.
"Independent Person (Audit)"	a person, independent of the Council, appointed to the Audit Committee. The independent member does not carry voting rights.
"Independent Person (Standards)"	a person independent of the Council appointed to advise the Council on standards and conduct issues before it makes a decision to dismiss a statutory officer (see section 8).
"In-house Preferred Test"	the Council's internal measure for determining if the Council's requirement would be best delivered by an internal mechanism, e.g., internal Service area or Council owned company, rather than through a competitive process.
"Internal Audit"	independent assurance in relation to the Council's risk management, governance and internal controls; The Council's internal audit function is provided by Veritau Public Sector Limited.

"Joint Arrangements / Committee"	an arrangement entered into by the Council with another local authority[6] or other public or private sector body.
"Key Decision"	an executive decision which: (a) will incur expenditure or savings in excess of the financial threshold set out in the Financial Limits Annex or more; or (b) will have a significant impact on two or more Wards.
"Key Decision Threshold"	as defined in the Financial Limits Annex.
"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 as non-executive functions[7].
"Low Value Contracts Threshold"	the below threshold specified in Part 6 of the Procurement Act 2023.
"Mayor"	the person directly elected by the public to lead the Council.
"Medium-Term Financial Strategy / Plan" or "MTFS/P"	the strategic financial framework, which sets out the financial position and financial sustainability of the Council over the medium term, and which supports the Council's policy and decision-making. The MTFS is a rolling 3 to 5-year plan, which considers the financial climate at both

6 Under Section 101 of the Local Government Act 1972

7 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

	the local and national level together with available resources and budgetary pressures to set a medium-term financial strategy focusing on both revenue expenditure and capital expenditure.
“Member Body”	any of the following: - Full Council; - the Executive; - Overview and Scrutiny Board; - Standards Committee; - Corporate Affairs Committee - Audit Committee; and - Any other Committee of the Council. For the avoidance of doubt, any reference to a Committee shall include its sub-committees.
“Minimum Revenue Position” or “MRP”	The minimum annual revenue charge the Council must set aside to repay the principal of the debt.
“Most Advantageous Tender (‘M.A.T.’)	Award criteria defined in the Procurement Act 2023.
“Motion”	A formal proposal put forward for debate or decision which must be seconded by an individual other than the proposer prior to being considered.
“NEPRO Solution”	a managed service solution from the North East Procurement Organisation (‘NEPO’) that provides a cost-effective and compliant route for the procurement of professional services by the public sector.
“Non-commercial Considerations”	These are: 1. The terms and conditions of employment of a Bidder’s workers or the composition of, arrangements for the promotion,

transfer or training of, or other opportunities afforded to, their workforce;

2. Whether the terms on which Bidders contract with their Sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self employed persons of their services only;
3. Any involvement of the business activities or interests of Bidders with irrelevant fields of Government policy;
4. The conduct of Bidders or their workers in industrial disputes between them or any involvement of the business activities of Bidders in industrial disputes between other persons;
5. The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, Bidders;
6. Any political, industrial or sectarian affiliations or interests of Bidders or their directors, partners or employees
7. Financial support or lack of financial support by Bidders for any institution to or from which the Council gives or withholds support;
8. Use or non-use by Bidders of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.

“Non-Executive Functions”	any function which may only be exercised by Full Council or by a Member Body (other than the Executive), individual Member or Officer. Some matters, such as approving the budget and policy framework, can only be decided by the Full Council.

“Officer / employee”	a person appointed to or holding a paid office of the council, or employed by the Council.
“Officer Scheme of Delegation”	the document which sets out the delegation of powers to officers, including powers to make decisions and spend money. The Mayor decides the delegation of executive functions to officers. Full Council decides the delegation of non-executive functions to officers.
“Open and Competitive Flexible Procedure”	a procurement process where any Bidder may submit a Tender.
“Opposition”	Councillors who are not members of the largest political group.
“Outside body”	the statutory bodies, charities, voluntary organisations, partnership bodies, local government associations, companies and other external organisations to which the Council appoints representatives.
“Overview and Scrutiny Committee”	scrutiny[8] is a role carried out by councillors who are not Executive members. Their role includes developing policy, carrying out reviews of Council and other local services and holding the Executive to account for their actions and decisions.
“Parent Company Guarantee”	a contract which binds the parent company of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, it can require the parent company to do so instead.
“Parish Council”	a local council representing a local community. The Parish Councils in the

[8] Part 1, Chapter 2 of the Local Government Act 2000

	Borough are Stainton and Thornton, and Nunthorpe.
“Policy Framework”	The plans and strategies which have to be adopted by the Full Council, and in accordance with which the Mayor, Executive and committees have to operate.
“Political balance”	the statutory provisions[9] determining how seats on committees are allocated to political groups. These rules do not apply to the Executive or Executive Committees.
“Politically restricted post”	employees in politically restricted posts are prevented[10] from having any active political role, either in or outside of work.
“Procurement and Contract Rules”	The rules the Council must follow when buying goods and services and undertaking work (formerly the Contract and Procurement Rules).
“Proper Officer”	an Officer appointed by the Council to carry out certain administrative functions as required by statute (see paras 9.9 and 10.25).
“Prudential Indicators”	mandatory indicators that local authorities are required to take into account when making capital expenditure plans, including for example, capital financing requirement and total external debt.
“Public Sector Audit Appointments / PSAA”	The PSAA is an independent organisation permitted to appoint auditors for principal local government and police bodies. As well as appointing an external auditor, it sets the scales of audit fees for councils opting in to its national scheme.

9 Sections 15 – 17 of the Local Government and Housing Act 1989

10 Section 2 of the Local Government and Housing Act 1989

“Quality Assurance and Improvement Programme / QAIP”	A comprehensive framework designed to evaluate the effectiveness and efficiency of the internal audit function and ensure it meets required standards and expectations. It includes internal and external assessments and promotes continuous improvement within internal audit.
“Quorum”	the minimum number of Members that need to be present for a meeting to go ahead.
“Regulatory Committees”	Regulatory Committees are responsible for registration and licensing functions such as planning, licensing, street trading, and hackney carriage and taxi licensing.
“Relevant Contract”	Contracts to which the Procurement and Contract Procedure Rules apply (see section 12.7).
“Reports”	written accounts prepared by officers of the Council for consideration by Members or to record decisions taken under delegated authority.
“Responsible Officer”	the Officer designated by the relevant Chief Officer or Deputy Chief Officer to deal with a particular procurement and contract and / or spend.
“Restricted Procedure”	a procurement process where any Bidder that meets the pre-qualification criteria may submit a Tender.
“Revenue Budget”	the Council’s budget for revenue spending in any financial year.
“Service”	any of the services provided by the Council.
“Shortlisting”	where Bidders are selected: - to submit a Quotation or Tender; or - to proceed to final evaluation.

“Social Value”	the duty on the Council to consider economic, social and environmental well-being when commissioning a public service.
“Standing List”	a list of approved suppliers able to perform contracts to supply goods or services of particular types.
“Statement of Accounts”	an annual statement of the Council’s accounts setting out its financial position for the financial year.
“Statutory Chief Officer”	senior officers that the Council is required, by law, to appoint to ensure the lawful and effective operation of the council. They are: - Head of Paid Service; - Monitoring Officer; - Chief Finance Officer; - Director of Adult Services; - Director of Children’s Services - Director of Public Health. but see also Chief Officers and Governance Statutory Chief Officers.
“Sub-contractor”	a person engaged by a bidder to discharge any part of a contract with the Council.
“Summons”	formal notice of a Full Council or Committee meeting, setting out the agenda of proposed business at the meeting.
“Tender”	a written offer made by any person (following an invitation from the Council) which can be accepted by the Council to form a binding contract.
“Total Value”	The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal, whether or not it comprises several lots or stages, to be paid or received by the Council or a Service

within the Council. The Total Value shall be calculated as follows:

- where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period
- where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months
- for feasibility studies: the value of the scheme or contracts which may be awarded as a result;
- for Sub-contractors: the Total Value shall be the value of that part of the main contract to be fulfilled by the Sub- contractor.

"Treasury Management Strategy"	sets out how the Council manages its money and any financial risks to ensure that the Council has sufficient money available to manage its day-to-day business; it also supports the development of the Council's longer-term financial strategies.
"Value for Money"	the optimal use of resources to achieve the intended outcomes based on economy, efficiency and effectiveness.
"Vice Chair"	the Councillor that deputises for the Chair.
"Vire" or "Virement"	moving funds from one area of spend to another.
"Ward"	an administrative division of the Borough served by one or more Councillors.

2.3 How and when is the Constitution monitored and reviewed?

2.3.1 It is the Monitoring Officer's responsibility to monitor, review and update the Constitution in accordance with the requirements of this Section 2 and any authority delegated to them. The Monitoring Officer should undertake an annual review of the Constitution, which shall be reported to Council.

2.3.2 Revisions to the Constitution will have regard to:

(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;

(c) changes in legislation or statutory guidance;

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

(e) any other relevant information.

2.4 When can the Constitution be changed and by whom?

Full Council delegates authority to the Monitoring Officer to amend the constitution if the change is:

(a) minor or required to remove an inconsistency, ambiguity or typographical error;

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

(c) required to comply with a legislative provision,

provided that the change is reported to the next meeting of Full Council. The change will take effect on the date decided by the Monitoring Officer or, where appropriate, the date set out in the relevant legislation.

2.5 When is the approval of the Mayor required to change the Constitution?

Full Council shall only approve a change to Section 6 (the Executive) and Section 7 (overview and scrutiny) of the Constitution with the prior written consent of the Mayor, which shall not be unreasonably withheld. This does not apply if the change only relates to the operation of the Overview and Scrutiny Board.

2.6 What is the process for changing from a Mayoral form of Executive?

If the Council consults with local electors and other interested persons in the Borough, holds a referendum of local electors in respect of changing its form of governance (see paragraph 10.6(d)(i)) and resolves to change its governance arrangements[11], the Constitution will be changed to reflect the newly adopted governance arrangements. The change in governance, and the updated constitution, will not take effect until the end of the Mayor's term of office.

2.7 When can the Constitution be suspended?

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11 Section 9KC of the Local Government Act 2000

2.7.1 The core provisions of the Constitution may not be suspended. However, the rules relating to Council and Committee procedures can be changed in certain circumstances (See Section 4).

2.7.2 Any of the Council Procedure Rules may be suspended for the duration of a meeting as set out at paragraph 4.8.1(d) of this Constitution.

2.8 Where is the Constitution published?

2.8.1 The Monitoring Officer will ensure that the Constitution is published on the Council's website and a copy of it is available for inspection at the Principal Office during normal business hours. A copy of the Constitution may be purchased upon payment of a reasonable fee.

2.8.2 The Monitoring Officer will provide a link to a copy of this Constitution to each newly elected Member upon receiving their declaration of acceptance of office.

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 section 14 of this Constitution.

3.1 Who has a right to vote and sign petitions?

3.1.1 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.

3.1.2 Citizens are also entitled to submit a petition to the Council provided that it relates to:

(a) Council business; or

(b) a matter over which the Council has responsibility; or

(c) a matter which affects the Borough.

3.1.3 Petitions will be processed in accordance with the provisions of the Council Procedure Rules set out at paragraph 4.8.

3.2 To what information can citizens have access?

3.2.1 Citizens can:

(a) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed (see further the Access to Information Procedure Rules at Section 14, and Table 16);

(b) attend meetings of the Executive except where confidential or exempt information is likely to be disclosed;

(c) find out from the Forward Work Programme what Key Decisions are planned to be taken by the Executive and when they are planned to be taken;

(d) see reports and background papers (except where they relate to confidential or exempt information) and any resulting records of decisions made by the Council, its Committees, the Executive and Officers;

(e) inspect the Council's accounts and make their views on them known to the external auditor.

3.2.2 Further information in respect of the above rights is contained within the Access to Information Procedure Rules at Section 14.

3.3 How can citizens participate in Council functions?

Citizens can:

(a) ask questions at Council and Committee meetings as set out in the Council Procedure Rules at paragraph 4.8;

(b) speak and ask questions of the Executive and its Committees as set out in the Executive Procedure Rules at paragraph 6.17;

(c) contribute to Overview and Scrutiny as set out in the Scrutiny Procedure Rules at Section 7.

3.4 How can a citizen make a complaint?

Citizens can complain to:

(a) the Council under its Corporate Complaints Policy;

(b) the Local Government and Social Care Ombudsman after exhausting 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?

3.5.1 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 respect its policies, processes and rules.

3.5.2 Citizens should treat the Mayor, Councillors and Officers with respect and must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, Members or officers.

4 Full Council

This section of the Constitution provides information about Full Council. This includes how it operates and exercises the non-executive functions of the Council.

4.1 What is Full Council?

Full Council is a formal meeting of all 46 Councillors and the directly elected Mayor. It meets regularly as set out in the Council Procedure Rules (see paragraph 4.8. of this section) and is chaired by the Chair of the Council. There are three types of meeting of Full Council:

(a) the Annual meeting;

(b) ordinary meetings;

(c) extraordinary meetings.

4.2 Who can be the Chair of the Council?

The Chair and the Vice-Chair of the Council are chosen from among the Councillors, usually at the annual meeting of Council. Neither the Mayor nor an Executive Member can be appointed to the role of Chair of the Council. Further detail on the role of the Chair of the Council is set out in the Member role profiles at paragraph 5.7.

4.3 What is the difference between the role of the Chair of the Council and the Mayor?

4.3.1 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. The Mayor therefore takes precedence in any civic duties.

4.3.2 The Mayor leads the Executive but may delegate civic functions to the Chair / Vice-Chair of the Council[12]. Further detail as to the Role of the Mayor is contained in Section 5 with the other Member role profiles.

4.3.3 Together with the Mayor, the Chair will promote the Council and act as a focal point for the community.

4.4 What functions does Full Council have?

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[12] Local Government Act 1972, section 3

The functions reserved to Full Council, and how they are discharged, are set out in detail at Section 10 (Responsibility for Functions) but include:

(a) regulatory functions (such as planning, licensing and health and safety at work);

(b) certain constitutional and quasi-legislative functions (such as the conduct of elections and making of by-laws);

(c) the local choice functions which the Council has not determined to be the responsibility of the Executive;

(d) setting the policy framework;

(e) setting the Council's budget.

4.5 What does the Policy Framework include?

The Policy Framework[13] is made up of the following mandatory plans and strategies:

(a) Crime and Disorder Reduction Strategy;

(b) Local Transport Plan;

(c) Plans and Strategies which comprise the Development Plan;

(d) Statement of Principles (Gambling Act 2005);

(e) Youth Justice Plan;

plus the following plans and strategies that Full Council has determined it should adopt or approve:

(f) Corporate Parenting Strategy;

(g) Adult Social Care Strategy;

(h) the Council Plan / Mayor's vision;

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[13] The list of documents required (by Regulation 4 or Schedule 3) or reserved by Council (pursuant to Regulation 5(1) and Paragraph 1 of Schedule 4) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) to be determined by Full Council, usually on the recommendation of the Executive. However, some documents listed in the Regulations are no longer required to be produced and are therefore excluded from the Council's policy framework:

(i) Annual Library Plan (unless required by section 1(2) Public Libraries and Museums Act 1964)

(ii) Best Value Performance Plan (abolished by s139 of the Local Government and Public Involvement in Health Act 2007)

(iii) Adult Social Care Strategy and Education Development Plan (removed by 2006 amendment regulations)

(iv) Sustainable Community Strategy (repealed by the Deregulation Act 2015, s100(1))

(i) Children and Young People strategy;

(j) Health and Wellbeing Strategy;

(k) Housing / Homelessness Strategy;

(f) Flood risk management plan;

(g) Climate Change Action Plan;

(h) Licensing Authority Policy Statement (Licensing Act 2003);

(i) Pay policy statement;

(j) Minerals and Waste Development Framework.

4.6 What does the budget framework include?

4.6.1 The Council is required to set a balanced budget each year in accordance with strict financial controls. To do this the Council:

(a) calculates the annual council tax requirement;

(b) determines the minimum revenue provision;

(c) identifies proposed contingency funds;

(d) considers the financial reserves needed to meet:

(i) expected expenditure; and

(ii) deficits for earlier financial years not already provided for; and

(iii) potential emergencies;

(e) determines the controls for its borrowing requirements;

(f) sets out the treasury management functions;

(g) determines its capital expenditure; and

(h) sets virement limits.

4.6.2 To discharge the prudent financial management measures set out above, the Council will adopt a:

(a) Medium-Term Financial Strategy;

(b) Capital Strategy;

(c) Budget Strategy reflecting the:

(i) Council Tax Base;

(ii) Revenue Budget;

(iii) Council Tax; and

(iv) Prudential Indicators.

4.7 Where is information about the budget and policy framework?

The Council has adopted Budget and Policy Framework Procedure Rules, see Section 15, governing the adoption and amendment of the Policy and Budget Framework. The Budget Framework is also informed by the Financial Procedure Rules set out at paragraph 12.7.

4.8 Council Procedure Rules

4.8.1 What are the Council Procedure Rules?

(a) These Council Procedure Rules apply to all meetings of Council. They set out how meetings will be organised and conducted.

(b) The Council Procedure Rules apply to committees and sub-committees except for the following:

(i) 4.8.3 to 4.8.5 inclusive;

(ii) 4.8.6 (d) (in respect of regulatory committee meetings only);

(iii) 4.8.12;

(iv) 4.8.14;

(v) 4.8.15 (a) to (j);

(vi) 4.8.16 to 4.8.21 inclusive;

(vii) 4.8.23;

(viii) 4.8.32 to 4.8.33;

(ix) 4.8.37.

which are identified with a ' ***** ' for ease of reference.

(c) Any reference to the Chair (of the Council) shall apply to the Chair of a Committee (unless the context dictates otherwise). For the avoidance of doubt, the Council Procedure Rules do not apply to Executive meetings and proceedings. The procedure rules relating to Executive meetings and functions (the Executive Procedure Rules) are set out at paragraph 6.17.

(d) All 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.

4.8.2 Who decides how the Council Procedure Rules apply in Council meetings?

(a) The Chair of the Council, with advice from the Monitoring Officer, decides how the CPR are applied.

(b) If circumstances arise that are not covered by the CPR the Chair, in consultation with the Monitoring Officer, decides how to proceed.

(c) If anything arises outside a Full Council meeting that the Monitoring Officer considers may require action from the Chair, the Chair is authorised to take any action they consider appropriate.

Council Meetings

4.8.3 How is the Annual Meeting of the Full Council conducted? *

(a) 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.

(b) The order of business at the Annual Meeting of Council will be as follows:

(i) elect the Chair and the Vice Chair of the Council for the ensuing municipal year, unless either has been elected for the time being;

(ii) receive any apologies and declarations of interests from Members;

(iii) approve the minutes of the last meeting;

(iv) receive a vote of thanks to the outgoing Chair;

(v) receive any announcements from the Chair, the Mayor and / or the Head of Paid Service;

(vi) be informed by the Mayor of the number and identity of Councillors to be appointed to the Executive;

(vii) decide:

a. which Non-executive Committees to establish for the municipal year including the following, required by law:

i. at least one Overview and Scrutiny Committee; and

ii. a Standards Committee; and

iii. an Audit Committee; and

iv. such other Non-executive 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).

b. the size and terms of reference of the Non-executive Committees;

c. the allocation of seats on Non-executive Committees to political groups in accordance with the political balance rules;

d. receive nominations of Councillors to serve on each Non-executive Committee and / or any outside body;

e. appoint:

i. Councillors to Non-executive Committees;

ii. Councillors to outside bodies (unless such appointments have been delegated or are reserved to the Executive);

iii. Chairs and Vice Chairs of Non-executive Committees.

(viii) 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:

a. be informed by the Mayor of the Councillors who will form the Executive; and

b. be advised who the Deputy Mayor is; and

c. receive the Executive Scheme of Delegations.

(ix) receive the Monitoring Officer's annual review of the constitution and agree the Non-executive Scheme of Delegations;

(x) approve a programme of ordinary meetings of the Council and its Non-executive Committees for the ensuing municipal year;

(xi) consider any business set out in the notice convening the meeting.

4.8.4 How are ordinary meetings of the Full Council conducted? *

(a) In addition to the Annual Council meeting, the Full Council will hold at least 6 ordinary meetings during the municipal year in accordance with a programme decided at the Council's Annual Meeting. One of the ordinary meetings will be the budget setting meeting in accordance with paragraphs (e) to (h) below. If the budget setting ordinary meeting takes place before 8 February, a further ordinary meeting will be scheduled before 11 March in accordance with the provisions of Part I of Schedule 2 of the Local Authorities (Standing Orders) (England)

Regulations 2001[14]. Full Council may, at an ordinary meeting, amend the programme of ordinary meetings agreed at the Annual Meeting.

(b) The usual venue for meetings of Full Council will be the Principal Office at 7.00 pm, unless otherwise agreed by Full Council.

(c) The order of business at ordinary meetings of Full Council will be as follows:

(i) elect a person to preside if the Chair of the Council and Vice Chair are not present;

(ii) receive any apologies for absence;

(iii) receive any declarations of interest from Members;

(iv) approve the minutes of the last meeting;

(v) receive any announcements from the Chair of the Council;

(vi) receive any announcement from the Head of Paid Service;

(vii) receive written update from the Mayor and deal with questions and answers arising therefrom from Members in accordance with CPR 4.8.15 (h) to (j).

(viii) receive written updates from Executive Members, and deal with questions and answers arising therefrom from Members in accordance with CPR 4.8.15(h) to (j);

(ix) receive questions from, and provide answers to, the public in accordance with the provisions of CPR 4.8.15 (a) to (d);

(x) receive petitions in accordance with CPR 4.8.32 to 4.8.33;

(xi) receive reports, questions from Members (in accordance with CPR 4.8.15 (h) to (j)) and answers arising therefrom, from:

a. the Executive;

b. Non-executive Committees;

c. Overview and Scrutiny Board;

d. Governance Statutory Chief Officers

(xii) receive any reports about, or minutes from, and receive questions and answers arising therefrom (in accordance with

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[14] Section 31A(11) of the Local Government Finance Act 1992 imposes a duty on the Council to set a budget before 11 March for the following municipal year. In the event that the meeting at which the budget is to be set occurs before 8 February, and Full Council objects to the budget proposed by the Mayor, there shall be a further ordinary budget setting meeting of Full Council to consider the Mayor's response to the objections and set the budget.

CPR 4.8.15 (h) to (j)) on the business of joint arrangements and external organisations;

(xiii) consider any other business specified in the summons to the meeting;

(xiv) deal with questions on notice from Members in accordance with CPR 4.8.15 (e) to (g); and

(xv) consider any motions submitted in accordance with CPR 4.8.22 to 4.8.31.

(d) The Chair may, following consultation with the Monitoring Officer, amend the order of business before or during the meeting.

Meeting of Council at which the Budget is set

(e) An ordinary meeting of Full Council will be held in February[15] or March each year to discharge the Council's budget setting duties[16].

(f) The business to be considered at the Budget Meeting shall be limited to the budget reports[17], subject to the Chair having discretion to accept additional items other than those relating to the budget in exceptional or urgent circumstances. Accordingly the following items shall be excluded from the Council Budget Meeting agenda set out at 4.8.4(c) unless the Chair agrees otherwise for the efficient discharge of Council business:

(i) (iv);

(ii) (vii) to (x);

(iii) (xi b-d);

(iv) (xii) to xv).

(g) The following Council Procedure Rules do not apply to the Budget Meeting:

(i) 4.8.15 to 4.8.21 (questions);

(ii) 4.8.23 to 4.8.24 (notice and scope of motions);

(iii) 4.8.26(a) to (e) and (p) to (u) (motions process);

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15 Where the Mayor submits budget proposals to Council for consideration prior to 8 February, the provisions of paragraph 8 to 13 of Part I of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001 will apply.

16 The Council must set a budget by 11 March for the financial year commencing on 1 April

17 Including, for the avoidance of doubt, the Pay Policy Statement

(iv) 4.8.27 to 4.8.29 (withdrawal, alteration and amendment of motions).

(h) The following provisions shall apply in relation to the consideration of budget reports at the Budget Meeting:

(i) Members proposing and seconding recommendations in a budget report may speak for up to 10 minutes each

(ii) One member from each opposition group shall have up to 10 minutes to respond to the budget recommendations, in order of the size of the political group. Independent members who are not affiliated to any political group shall be entitled to speak in the general debate of the budget report;

(iii) any member who has not already spoken may speak for up to 3 minutes during the general debate;

(iv) Where notice of an amendment to the budget reports has been provided in accordance with paragraph 4.8.29(c), the amendments will be moved and seconded once all of the introductory speeches have been made;

(v) Members proposing or seconding amendments to a budget report (which will take place only once all introductory responses to the budget have been received) may speak for up to 10 minutes;

(vi) All motions proposing amendments at a Budget Meeting will be proposed and seconded before the Chair opens the debate on the budget reports;

(vii) 4.8.30(e) (named vote) and (g) (Council Tax arrears) apply to the Budget Meeting.

4.8.5 How are extraordinary meetings of the Full Council convened? *

(a) Extraordinary meetings of the Full Council may be called:

(i) at the request of the Chair of the Council;

(ii) by the Council by resolution;

(iii) at the request of the Monitoring Officer, the Head of Paid Service or the Chief Financial Officer; or

(iv) by any five Members of the Council (which may include the Mayor) who have:

a. signed a requisition; and

b. presented it to the Chair of the Council; and

c. the Chair has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

(b) The business to be conducted at an extraordinary meeting shall be restricted to the business specified in the summons to the extraordinary meeting. There shall be no consideration of previous minutes or reports from Committees etc. unless the Chair exercises their discretion in accordance with CPR 4.8.7.

(c) Save as otherwise set out in this CPR 4.8.5, the conduct of extraordinary meetings will be the same as an ordinary meeting of the Full Council.

4.8.6 What is the timing, location and duration of Council meetings?

(a) The date and time of meetings will be in accordance with the programme of meetings agreed by Council.

(b) The Proper Officer will issue the summons to the meeting in accordance with the Access to Information Procedure Rules (Section 14).

(c) Once the Proper Officer has given notice and summons of a meeting it may be postponed or cancelled if there is insufficient business for the meeting to consider. Any postponement or cancellation must be agreed with the Chair and Vice Chair following consultation with the Monitoring Officer. Notice of the cancellation should be given to members summonsed to the meeting as promptly as possible. If the meeting is cancelled for reasons other than an absence of business a new date to hold the meeting will be arranged.

(d) Except when paragraph 15.2.10(b) applies, a meeting of the Council that has lasted for three hours will be adjourned immediately unless extended. 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. *

(e) Notwithstanding 4.8.6(d) above, where a meeting includes the presentation of awards or presentations by outside bodies, the permitted duration of the meeting is extended to 3 hours 30 minutes.

(f) The Chair may extend any of the time limits set out within these Council Procedure Rules where they reasonably decide that such an extension is appropriate in the circumstances.

4.8.7 How is the business of a Council meeting determined?

(a) The Monitoring Officer shall, when preparing an agenda for a meeting of the Council, consider whether all relevant procedural requirements

have been met and whether any item of business (including motions, amendments or questions) may properly be put before the meeting.

(b) The Chair, having taken advice from the Monitoring Officer and, where practicable, having afforded the Member or their Group Leader the opportunity to make representations in the matter, may determine that an item of business shall not be placed on the agenda or otherwise put to the meeting if one or more of the following apply:

(i) it is not about a matter for which the Council has a responsibility or which affects the Borough;

(ii) it is defamatory, frivolous, vexatious, unlawful, offensive or otherwise improper;

(iii) it requires the disclosure of confidential or exempt information;

(iv) it names or identifies individual service users, members of staff or members of staff of partner agencies;

(v) it is more appropriate for another meeting;

(vi) it contains expressions of opinion, is lengthy or a speech;

(vii) it does not relate to questions of fact.

4.8.8 How is notice of a Council meeting given?

(a) Notice of the time and place of any Council meeting will be given in accordance with the Access to Information Procedure Rules in Section 14.

(b) The agenda and reports for each Council meeting will be made available in accordance with the Access to Information Procedure Rules (Section 14).

4.8.9 Who chairs Council meetings?

(a) The appointed Chair, if in attendance, will preside at a meeting.

(b) If the Chair and the Vice Chair are absent from a meeting, the Members of the Committee will appoint a Chair for the meeting.

(c) A person elected or appointed to preside at a meeting may exercise any power or duty of the Chair.

4.8.10 What is the quorum for Council meetings?

(a) The quorum of a meeting of Council will be the greater of three or one quarter of the whole number of Members (including the Mayor) for that meeting unless otherwise stated. For the avoidance of doubt, the whole number of Members does not include vacancies.

(b) 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 or at an extraordinary meeting convened for that purpose.

4.8.11 What are the rules on remote attendance at meetings?

(a) Members may not attend Council or Committee meetings remotely.

(b) Officers may, as a result of exceptional circumstances, only attend Council or Committee meetings remotely with the prior agreement of the Chair provided that appropriate facilities are available at the meeting location.

(c) A person called to a meeting who is not a Member or an Officer, may attend a meeting remotely provided that this is agreed in advance of the meeting with the Chair and appropriate facilities are available at the meeting location.

4.8.12 What are the arrangements for Announcements and Updates? *

Each of the following shall be permitted ten minutes at a meeting of the full Council to provide their announcement or update and respond to any questions given with prior notification in accordance with 4.8.15(h):

(a) the Chair;

(b) Head of Paid Service;

(c) the Mayor; or

(d) Executive Members.

Reports and Recommendations

4.8.13 Who may present reports or make recommendations to Council and how are they handled?

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

(b) Recommendations may be made to Committees and Sub-Committees by the appropriate Officer.

(c) A report to Council containing a recommendation will be moved by the appropriate Member as a motion but no seconder shall be required unless the provisions of paragraph 4.8.4 in relation to the Budget Meeting apply.

(d) Any of the Statutory Chief Officers may make reports and / or recommendations to the Council as necessary, or as required in the exercise of their statutory functions.

(e) Reports will be prepared in accordance with the provisions set out at Decision-Making section (see Section 13).

4.8.14 When are Executive matters considered by the Council? *

(a) Executive business can be considered at every ordinary meeting of Council, except:

(i) the Annual Meeting; and

(ii) the meeting at which the Budget is set (other than budget related matters).

(b) Executive business includes:

(i) Reports from the Mayor and Executive Members;

(ii) Decisions made by the Executive (including "single member" decisions"); and

(iii) forthcoming business of the Executive.

(c) In relation to forthcoming business, the Executive will present reports to the Council on decisions:

(i) that have been taken since the last Council meeting and subject to the Call-in period described in section 7;

(ii) to be taken up until the date of the Council meeting; and

(iii) that are planned to be made after the Council meeting.

(d) The Council may not take any decision in relation to Executive Functions.

Questions

4.8.15 Process for asking and answering questions at a Meeting

Public: *

(a) Members of the public may ask questions on notice of the Mayor, Executive Members or the Chair of a Committee at ordinary meetings of the Council, other than the meeting designated for setting the Budget.

(b) A question from the public may only be asked if notice of it has been given to the Proper Officer it in writing or by electronic mail to councilquestions@middlesbrough.gov.uk no later than 5.00 pm seven clear days before the date of the meeting.

(c) Each question must give the name and address of the questioner.

(d) A time limit of 15 minutes will apply to questions from the public.

Members - On Notice: *

(e) A Member of the Council may ask the Mayor, an Executive Member or the Chair of any Committee a question on notice (including about the business of joint committees, joint authorities and outside bodies) at a Council meeting (apart from the Budget Meeting) provided that notice of the question is given to the Proper Officer in writing or by electronic mail to councilquestions@middlesbrough.gov.uk no later than 5.00 pm seven clear days before the date of the meeting.

(f) Any questions received will be printed on the agenda for the meeting.

(g) A time limit of 30 minutes will apply to questions from Members on notice.

Members – With Prior Indication: *

(h) A Member of the Council may ask the Mayor or an Executive Member a question on any update provided under paragraph 4.8.4(c)(vii) or 4.8.4.(c)(xi) provided that prior notification of the topic of the question is given to the Monitoring Officer in writing or by electronic mail to councilquestions@middlesbrough.gov.uk no later than 5.00 pm the day before the meeting.

(i) No question will be permitted on any matter for which the prior indication was not received.

(j) The total time permitted for questions with prior indication from Members (apart from at the Budget Meeting) is 45 minutes, which may be extended by the Chair at their discretion for a further 15 minutes.

Members - Without Notice

(k) A Member may, without giving notice, ask a question or make a comment in a meeting when reports are being received or considered by the Council.

(l) There shall be no time limit on questions from Members asked without notice.

Time

(m) Questioners will be allowed two minutes to ask their question.

(n) The responding Member will be allowed three minutes to respond to the question.

(o) A questioner will be allowed two minutes to ask a supplementary question arising from the answer.

(p) The responding Member will be allowed three minutes to respond to the supplementary question.

Generally

(q) Questions will not be accepted as valid if CPR 4.8.7(b) applies.

(r) The questioner should specify to whom the question is addressed. Any questions not identifying a responder will be answered by the most appropriate Member, determined by the Chair.

(s) Questions will be asked in the order they were received, except that the Chair may group together similar questions.

(t) The Chair will invite the questioner to put the question. An absent questioner may ask the Chair to put the question on their behalf. The Chair may either:

(i) ask the question on the questioner's behalf;

(ii) indicate that a written reply will be given; or

(iii) decide, in the absence of the questioner, that the question will not be dealt with.

(u) An answer may take the form of:

(i) a direct oral answer at the meeting;

(ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

(iii) where the reply cannot conveniently be given orally, a written answer to the questioner within 10 clear days, published by the Council.

4.8.16 How many questions can be asked by an individual or organisation? *

(a) At any meeting no person or organisation may submit more than one accepted question.

(b) No more than one accepted question may be asked on behalf of an organisation.

(c) No person or organisation may submit more than five accepted questions on notice in any municipal year without the Chair's consent.

4.8.17 How much time is allowed for questions at a Council meeting? *

(a) The total time permitted for questions with prior indication from Members (apart from at the Budget Meeting) is 45 minutes, which may be extended by the Chair at their discretion for a further 15 minutes.

(b) The total time permitted for public questions at any Council meeting (apart from at the Budget Meeting) is 15 minutes.

4.8.18 What happens if a question is not dealt with? *

Any question which cannot be dealt with during the meeting will be dealt with in accordance with paragraph 4.18.15(u)(iii).

4.8.19 Can a question be withdrawn? *

(a) A questioner can withdraw a question before the agenda papers for a Council meeting have been circulated without consent.

(b) If the agenda papers have been published, a question may only be withdrawn with the consent of either the person to whom it was put, or the Chair if no responder was identified by the questioner.

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

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.

4.8.21 How are questions recorded? *

(a) The Proper Officer will maintain a record of questions submitted on notice to the Council which is open to public inspection. Rejected questions will include a statement of reasons for rejection.

(b) Notice of accepted questions to be posed at a meeting will be circulated to all Members after the closure of the notice period set out in paragraph 4.8.15(f) and made available to the public attending the meeting.

Motions

4.8.22 What is a motion?

(a) Motions can be submitted by Members and are either:

(i) a procedural matter affecting the course of a meeting, not requiring notice to be given; or

(ii) a request on notice for a matter, which affects the Borough or for which the Council has a responsibility, to be discussed at a meeting.

(b) A motion can be to adopt a certain course of action, to do an act or to declare a particular attitude.

(c) Recommendations contained within a report are also treated as motions but paragraphs 4.8.23 to 4.8.25 do not apply.

4.8.23 What are the notice requirements for motions? *

(a) Except for procedural motions, which can be moved without notice under paragraph 4.8.25(a), and in cases of urgency, notice of a motion must be delivered in writing or by electronic mail to the Monitoring Officer at least nine clear days before the Council meeting at which it is to be considered. Motions received will be open to public inspection.

(b) A Member may move an urgent motion by giving at least three clear days' written notice to the Monitoring Officer and the Chair. The notice (which may be via email) must be accompanied by a written explanation of the urgent matter to which it relates.

4.8.24 What is the scope of motions?

(a) Motions on notice must relate to matters for which the Council has a responsibility, or which affect the wellbeing of the administrative area of the Council. Motions on notice will not be accepted as valid if CPR 4.8.7(b) applies.

(b) Motions on notice relating to Executive Functions shall be referred to the Executive for consideration.

(c) Whether a motion is accepted as urgent is at the sole discretion of the Chair. Urgent matters will generally have arisen after the normal deadline for submitting motions on notice, and will concern matters which, in the opinion of the Chair, should not be delayed until the next ordinary meeting of the Council.

(d) Notice of a motion will not be accepted without a seconder being identified (other than where the motion is a recommendation in a report).

(e) 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 one quarter of all Members.

(f) A motion or amendment on notice 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 half of all Members. Once the motion or amendment is dealt with, no-one can propose a similar motion or amendment for six months.

(g) Motions for which notice has been given will be listed on the agenda of the next available meeting (excluding the Budget Meeting) in the order they are received. The Member submitting the motion may propose that it is moved to a later meeting (excluding the Budget Meeting).

4.8.25 Which motions can be moved without notice?

(a) The following motions may be moved by a Member without notice at a meeting:

(i) appointing a Chair of the meeting at which the motion is moved;

(ii) in relation to the accuracy of the minutes of a meeting;

(iii) changing the order of business in the agenda of a meeting;

(iv) referring something to an appropriate body or individual;

(v) appointing a Committee or Member arising from an item on the summons for the meeting;

(vi) receiving reports or adopting recommendations of Committees or Officers and any resolutions following from them;

(vii) that the question be now put or proceeding to the next business;

(viii) adjourning a debate or a meeting;

(ix) extending the duration of the meeting beyond three hours;

(x) suspending a Council Procedure Rule;

(xi) excluding the public and press from a meeting in accordance with the Access to Information Procedure Rules;

(xii) to not hear further a Member named under section 4.8.37(c) or to exclude them from the meeting under section 4.8.37(d); and

(xiii) to give the consent of the Council where its consent is required by this Constitution.

(b) The Chair may, at their absolute discretion, require any without notice motion or amendment to be written down before it is discussed.

4.8.26 What is the process for considering motions?

(a) Accepted motions will be published in the agenda for the meeting at which they are to be considered in accordance with paragraph 4.8.4(c)(xiv). Recommendations in reports will be published in accordance with paragraphs 4.8.4(c)(xi) to (xiii).

(b) The Chair will invite the proposer of a motion to propose the motion, and have it seconded.

(c) Recommendations within reports will be proposed by the appropriate Member but no seconder shall be required.

(d) Once a motion has been moved and seconded, before moving on to speeches in respect of the motion, the Chair will ask Members if they have any questions of factual clarification on the Motion. Questions which do not comply with paragraph 4.8.7(b) will not be permitted.

(e) Members who ask or answer factual questions on the motion will retain the right to make a speech on the motion.

Speeches

(f) No speeches may be made until the motion has been seconded, unless it is recommendations in a report.

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

(h) Speeches must be directed to the question under discussion or to a personal explanation or point of order.

Speak again

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

  (i) to speak once on an amendment moved by another Member;

  (ii) to move a further amendment if the motion has been amended since they last spoke;

  (iii) 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);

  (iv) in exercise of a right of reply;

  (v) on a point of order;

  (vi) by way of personal explanation; and

  (vii) to answer a question directed at them by another Member.

(j) If an amendment is moved, the proposer 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.

(k) The mover of an amendment has no right of reply to the debate on their amendment.

Closure motions

(l) A Member who has not previously spoken on a motion may move, without comment, one of 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.

(m) If a motion to proceed to the next business is seconded and the Chair thinks the item has been sufficiently discussed, the proposer of the original motion will have a right of reply and then the without notice procedural motion will be put to the vote.

(n) If a motion that the question be now put is seconded, and the Chair thinks the item has been sufficiently discussed, they will put the without notice procedural motion to the vote. If the procedural motion is carried, the proposer of the original motion will have a right of reply before the motion is put to the vote.

(o) 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 without notice procedural motion to the vote without giving the proposer of the original motion a right of reply.

Time

(p) The time allowed for consideration of motions submitted on notice shall not, without the consent of the Council, exceed 30 minutes.

(q) Proposers and seconders of motions on notice shall each be permitted 5 minutes to move or second the motion.

(r) A Member asking a question of clarification to a proposer prior to the motion being debated shall have up to two minutes to ask their question. The proposer of the motion will have up to three minutes to respond to the clarification question.

(s) Speeches by Members debating the motion shall not exceed 3 minutes.

(t) At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

(i) if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);

(ii) if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment);

(iii) otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.

(u) Any remaining motions on notice shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given.

4.8.27 How are motions withdrawn?

(a) The proposer of a motion may withdraw it at any time prior to the agenda for the meeting at which it is to be considered being published.

(b) Once the agenda has been published, a motion may only be withdrawn with the consent of the Chair.

(c) Once a motion has been moved and seconded in a meeting, it can only be withdrawn with the consent of the seconder and the meeting. The meeting's consent will be signified without discussion.

4.8.28 How are motions altered by the proposer?

(a) A Member may amend an on notice motion they have proposed at any time prior to the agenda for the meeting at which it is to be considered being published.

(b) Once the motion has been published on the agenda for a meeting, and before the start of the meeting at which the motion is to be considered, the motion can only be amended by the proposer with the consent of the Chair.

(c) During debate of a moved and seconded on notice motion, the proposer may alter the motion, without notice, only with the consent of the seconder of the motion and the meeting. The meeting's consent will be signified without discussion.

4.8.29 How are motions amended?

(a) Before submitting an amendment to a motion, Members are advised to discuss their suggested amendment with the proposer and seconder of the motion to determine whether agreement can be reached.

(b) If agreement cannot be reached, notice of intention to propose an amendment to a motion published on an agenda must be given in

writing to the Monitoring Officer not less than two clear days prior to the meeting at which it will be considered.

(c) If the amendment has financial implications for the Council, notice of it must also be served, in writing, on the Chief Finance Officer at least three clear days before the meeting. The amendment will not be accepted as valid, and will therefore be disregarded, if the Chief Finance Officer, in consultation with the Monitoring Officer, does not consider it to be deliverable and in accordance with the Council's statutory obligations.

(d) Substantive amendments proposed without notice during a meeting should be submitted in writing to the Chair, who may, after consulting the Monitoring Officer, briefly adjourn the meeting to allow the amendment to be processed.

(e) Amendments of a minor or typographical nature may be submitted verbally during a meeting. The Chair, in consultation with the Monitoring Officer, will determine whether an amendment is minor.

(f) An amendment must be relevant to the motion, not negate the effect of the motion and will either be to:

  (i) leave out words;

  (ii) leave out words and insert or add others; or

  (iii) insert or add words.

(g) Only one amendment may be moved and discussed at any one time and no further amendment may be moved until the amendment under discussion has been decided.

(h) When an amendment is moved, the Chair will ask the proposer of the original motion if they are willing to alter their motion in accordance with the amendment. If they accept, the amendment becomes the substantive motion and is debated. If the proposer of the original motion is unwilling to alter their motion, the Chair will ask if there is a seconder for the amendment. If there is a seconder, the amendment will then be debated and voted upon.

(i) If an amendment to the original motion is not carried, other amendments to it may be moved.

(j) If an amendment is carried, the motion as amended takes the place of the original motion and becomes the substantive motion to which any further amendments are moved. The Chair will read out the amended motion before accepting any further amendments, or if there is none, put it to the vote.

4.8.30 How are motions voted on?

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

(b) 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.

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

(d) 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.

(e) If 25% 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[18], the names for and against the motion or amendment or abstaining from voting will be recorded and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

(f) 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.

(g) Any Member who has at least two months' unpaid Council Tax may not vote on the Budget. If a Member who is in such Council Tax arrears is present at a meeting where Council Tax or precepts are discussed, they must disclose this to the meeting and not vote on question relating to Council Tax or precepts.[19]

(h) 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.

4.8.31 How are motions of no confidence handled?

(a) 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.

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18 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, section 2

19 Local Government Finance Act 1992, section 106

(b) A motion of no confidence may be submitted in respect of:

(i) the Mayor;

(ii) an Executive Member;

(iii) a Councillor;

(iv) the Chair of the Council; or

(v) the Chair of any Committee

but may not have a practical effect.

(c) Votes of no confidence therefore only show the intent of the Council as:

(i) only the Mayor may remove an Executive Member from the Executive;

(ii) Members remain in office until their resignation, disqualification, or the election of a successor.

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

(e) A motion of no confidence can be brought in respect of a Committee chair if notice of it is submitted at least nine clear 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. During consideration of the motion of no confidence:

(i) the Committee chair shall stand down and the Monitoring Officer, or their representative, will chair the meeting.

(ii) the motion of no confidence shall be debated in accordance with these Council Procedure Rules.

(f) 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.

(g) 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.

(h) 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.

Petitions *

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

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

4.8.33 How are petitions dealt with by the Council? *

(a) A petitioner will be given up to two minutes to present a petition to the Council meeting at which it is tabled. Only one person may speak to present a petition.

(b) 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.

(c) The Council cannot take any decisions, or pass any motion, in respect of any petition received that relates to Executive Functions.

(d) No petitioner or organisation may present more than one petition to a meeting.

Minutes Of Meetings

4.8.34 How are the minutes of Council meetings recorded?

(a) 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.

(c) Upon receiving the assent of the meeting, the Chair will sign the minutes.

(d) Minutes of previous meetings will not be signed at an extraordinary meeting.

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

Attendance and Conduct of Meetings

4.8.35 What happens if a Member is disqualified?

If a Member is disqualified from holding office, they are automatically removed from office with immediate effect, including from any position they hold within the Council or on any Committee.

4.8.36 How will member attendance at a meeting be recorded?

(a) The Monitoring Officer will maintain and publish the record of attendance of Members.

(b) Any apologies received from a Member before the meeting will be noted in the record of attendance.

4.8.37 How should Members conduct themselves at Council meetings? *

(a) Members speaking at a Council meeting should stand (if able) 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.

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

(c) If a Member persistently disregards the ruling of the Chair, behaves 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.

(d) If the Member continues to behave improperly following the passing of a motion as set out at 4.8.37 (c), 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.

4.8.38 What are points of order and when do they arise?

(a) 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 and it will be heard immediately. The Chair will consult with the Monitoring Officer before ruling on the matter.

(b) A point of order may only relate to an alleged breach of these CPRs 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.

4.8.39 What is a personal explanation and when is it used?

A Member may make a personal explanation (i.e. 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.

4.8.40 Can a councillor nominate a substitute to attend a meeting on their behalf?

(a) A Councillor may nominate a substitute to attend a Committee meeting on their behalf provided that the substitute:

(i) has undertaken any mandatory training required for the meeting they are to substitute at; and

(ii) does not change the political balance of the committee.

(b) Notice of the substitution must be provided in writing or via email to the Proper Officer and the Chair of the relevant Committee at least 24 hours before the commencement of the meeting.

(c) The designation of a substitute shall apply to the specific meeting or for such longer period as the Councillor specifies. A Councillor may designate a different substitute for each Committee on which they sit.

(d) A Councillor may terminate the designation of a substitute with immediate effect by written notice to the Proper Officer.

(e) Substitute Members have the same powers and duties as the Member for whom they are substituting, save that they may not exercise any special powers or duties.

(f) At the start of the meeting a substitute Member shall identify the Councillor for whom they are substituting, and that Councillor will be excluded from the meeting.

4.8.41 When will members of the public and press be excluded from a Council meeting?

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 or Council Procedure Rule 4.8.42(c).

4.8.42 What happens if a Council meeting is disturbed?

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

(b) 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.

(c) 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.

4.8.43 Is filming and the use of social media permitted during Council meetings?

(a) Unless the press and the public are excluded from the meeting in accordance with the Access to Information Procedure Rules at section 14, filming and use of social media in accordance with the Protocol for Recording Council Meetings (see paragraph 4.9) is permitted during meetings so long as there is no disturbance to the conduct of the meeting.

(b) Electronic devices should be switched to silent with no vibration during Council meetings.

4.8.44 How can Member appointments be terminated?

(a) 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.

(b) The Council may at any time, by resolution, remove a Member from a role to which they have been appointed.

(c) Chairs and Vice Chairs of sub-committees shall be appointed and removed by their parent Committee.

(d) An Executive Member may not chair any meeting of the Council, the Overview and Scrutiny Board, a Scrutiny Panel, the Standards Committee, the Corporate Affairs Committee or the Audit Committee.

4.9 Protocol for Recording Council Meetings

This section sets out the Council's expectations 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. In the event of any conflict between this protocol and the Council Procedure Rules or the Executive Procedure Rules, the relevant Procedure Rules will take precedence.

4.9.1 What right is there to record Council meetings?

(a) The Council is committed to being open and transparent particularly in relation to the way it conducts business at meetings which are open to the public.

(b) To assist with this, the Council will film and / or broadcast the proceedings of Council meetings and, where it is feasible and practical to do so, other meetings which are open to the public.

(c) It is intended that the footage will be made available for public viewing via the Council website.

(d) 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[20]. The Government provides guidance for members of the public and the press on attending and reporting meetings of local government.

4.9.2 How should members of the public conduct themselves when recording Council meetings?

(a) To assist members of the public with accessing its meetings, the Council has adopted the following guidelines:

(i) subject to (ii) below, all members of the public remain seated during the proceedings of the meeting;

(ii) any members of the public who prefer not to be filmed should sit or stand to the rear of the public area;

(iii) those wishing to film a meeting must show appropriate respect for the wishes of the public who do not wish to be filmed;

(iv) that in seeking to film, photograph or make an audio recording of a meeting, the conduct of the meeting is not disturbed;

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[20] The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

(v) if it is agreed at the meeting to pass a motion to exclude the press and public because confidential and / or exempt information[21] 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;

(vi) that without the express consent of their parents / guardians, the filming of any children who might be in attendance is strictly prohibited;

(vii) 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.

(b) 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 the relevant procedure rules in this Constitution.

4.9.3 What else should members of the public bear in mind when recording Council meetings?

(a) 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.

(b) Meeting agendas, and signs displayed inside and outside the meeting room, will confirm that the meeting may be filmed and / or broadcast via the Council's internet site.

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[21] Schedule 12A of the Local Government Act 1972, see further Table 11 in the Access to Information Procedure Rules at Section 14 of the constitution

5 Members

This section explains the role of Members.

5.1 What elected representatives does the Council have?

5.1.1 The Council comprises:

(a) 46 Councillors elected to represent 20 wards; and

(b) A Mayor directly elected to lead the Council.

5.1.2 Collectively, the Mayor and Councillors are referred to as Members of the Council.

5.2 Who can stand for election as a Member?

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 Member if they are over the age of 18.

5.3 How are Members elected?

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

5.3.2 The Mayor is elected to serve the whole Borough.

5.3.3 Elections are held every four years in May, usually on the first Thursday. The last election took place in 2023.

5.4 How long does a Member's term of office last?

5.4.1 A Member's term of office starts four days after they are elected and ends four 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[22].

5.4.3 If the Mayor ceases to be a Member before the end of their term of office, the provisions of paragraph 6.6 will apply.

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[22] Local Government Act 1972, Part V

5.5 What is the role of a Member?

5.5.1 Councillors will:

(a) collectively be the ultimate policy-makers and carry out a number of strategic and civic 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 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 standards of conduct and ethics, as set out in the Member Code of Conduct at paragraph 8.9.

5.5.2 The Mayor holds additional responsibilities, which are set out in Section 6.

5.6 What other roles can Councillors hold?

5.6.1 In addition to their general role as an elected representative of the Council, Councillors may be appointed to the following roles:

(a) Non-executive roles – such as on a committee or overview and scrutiny panel;

(b) Executive roles;

(c) Committee Chairs;

(d) Group Leader;

(e) Representing the Council on outside bodies.

5.6.2 The Mayor appoints Councillors to the role of Executive Member, including Deputy Mayor, as set out in Section 6.

5.6.3 Political groups are entitled to elect and replace a group leader.

5.7 What are the distinct responsibilities of the separate Member roles?

Members

5.7.1 All Members represent local people and are expected to fulfil the following key objectives[23]:

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23 "Ward Councillors and Community Leadership" (2007) – a report by the Joseph Rowntree Foundation

(a) **Political representative:** the ability to connect with all parts of the community, to represent everyone fairly and to balance local concerns with the demands of their political group manifesto. This requires teamwork, close liaison, joint working and the sharing of responsibilities with fellow councillors within multi-area wards, regardless of political affiliation.

(b) **Community advocate:** be a skilled advocate for people from different backgrounds, cultures, and values. Members will have the confidence to speak freely and challenge the Executive and demonstrate a good working knowledge and understanding of, and commitment to, equalities and diversity issues.

(c) **Community leader:** exercise community development skills by supporting local projects and initiatives, educating people about local participation and involving them in policy development, service planning and decision-making. This requires being a good communicator, able to explain what political decisions and structures mean to constituents and community organisations, with knowledge and skills to engage people in a variety of ways (not just meetings). Members will be sensitive to difference and issues of diversity and equality and work with all groups in the locality to build community cohesion, acting as a conflict broker if necessary.

(d) **Service transformer**: understand the complex business of local government and services provided both by the council and others, and have the confidence and ability to hold service providers to account for performance / delivery. This will require working in partnership with a range of agencies and interests (including town and parish councils) and the ability to understand local problems and use this knowledge locally and strategically in local action planning. It will include setting and monitoring service standards and working closely with the voluntary sector and / or lead community groups linked to specific projects.

(e) **Place shaper**: be a local figurehead / role-model that people feel they can turn to, able to shape the very local environment by providing direction, identifying priorities and working with officers and service providers to address public realm problems. This also involves promoting the Council's vision for the Borough.

(f) **Knowledge champion**: be the primary source of local intelligence flowing between the community and the Council through local surgeries and meetings, letters / e-mails and phone calls. This will require engagement with local stakeholders and the skills to collect and analyse local information to use it to benefit the community.

5.7.2 In addition to the above responsibilities, some roles carry additional responsibilities. These are summarised below, with full role profiles included at paragraph 5.11.

Non-executive roles

5.7.3 Committee members participate and make decisions about a wide variety of issues such as planning, licensing and registration, and corporate governance. Appropriate training will be provided before decisions are taken and Members will need to follow any additional codes and guidance identified. The work of committees contributes to policy development and service development, thus providing oversight of the performance of the Council. It is therefore a vital role to undertake.

5.7.4 Equally important is the role of scrutinising and challenging the Executive and service delivery against the corporate plan via the overview and scrutiny function.

Executive roles

5.7.5 Being appointed to the Executive brings with it a significant workload and specific responsibility for an area (or areas) of service provision and policy formulation and development. It requires a considerable commitment to collectively take key decisions and exercise specific responsibility for delegated matters. The responsibility of an Executive role results in a higher local profile and additional media exposure due to the need to make tough decisions on competing priorities.

5.7.6 Executive Members have an enhanced responsibility to provide leadership and direction to the Council while championing the Borough regionally and nationally and ensuring support for other Members and the local issues they champion.

Committee Chairs

5.7.7 The key objective of those chairing committees and panels is to ensure the effective, efficient and fair chairing of meetings of the Council in addition to their role as a Member.

5.7.8 The objective will be achieved by Chairs presiding over meetings in accordance with the constitution, ensuring that meetings provide a forum for the debate of matters of concern.

Overview and Scrutiny Board Chair

5.7.9 The Overview and Scrutiny Board Chair must discharge the roles of a Member, a Non-executive Member and a Committee Chair while also leading the Overview and Scrutiny function for the Council. They will monitor and evaluate the Scrutiny Work Programme and Forward Work Programme,

contributing to the continuous improvement in Services and implementation of best practice by making recommendations to the Executive and the Council to improve policy, performance and service delivery.

Group Leaders

5.7.10 The Council recognises that each political group represented on the Council has a group leader. Collectively, the group leaders have a key leadership role, particularly in relation to cross-party working. Group Leaders are expected to provide strong, fair leadership and clear political guidance to their group members and be the principal political spokesperson for the political group. They will promote (not undermine) the best interests of the Council, ensuring that members of their political group act in a similar manner.

Representing the Council on outside bodies

5.7.11 The Council nominates Members to represent it on a wide variety of outside bodies. Members accepting such appointments must bear in mind the different duties owed to the Council and the outside body, and seek advice from officers in the event of any conflict or uncertainty in those roles.

5.8 What rights and duties do Members have?

5.8.1 Members 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), except for any documents judged by the Monitoring Officer not to be appropriate to be shared as set out in the Access to Information Procedure Rules at Section 14;

(b) keep confidential and exempt information (as defined in the Access to Information Procedure Rules in section 14) out of the public domain (unless the Council has given its explicit consent to disclosure) and not divulge confidential information to anyone other than a Member or Officer who needs to know it;

(c) be entitled to claim allowances in accordance with the Members Allowance Scheme set out at paragraph 5.10.

5.9 How should Members behave?

Members will at all times observe the Members' Code of Conduct (paragraph 8.9) and the Protocol on Member / Officer Relations (paragraph 9.11.24).

5.10 Members' Scheme Of Allowances

The Members' Scheme of Allowances[24] sets 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. It was adopted by Council on 20 May 2026.

5.10.1 Basic Allowance

(a) All Members 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.

(b) 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.

(c) Subject to paragraph 5.10.10 the basic allowance will be paid to each elected Member for the year 1 April to 31 March in equal monthly instalments.

(d) The Basic Allowance shall be £8,330 per year.

(e) The Basic Allowance will not be increased in line with staff pay rises or inflation.

5.10.2 Special Responsibility Allowances

(c) 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.

(d) For each year a special responsibility allowance shall also be paid to those Members who hold the special responsibilities in relation to the Council that are specified in Table 2. 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.

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[24] The Local Authorities (Members' Allowances) (England) Regulations 2003

(e) Special Responsibility Allowances were originally arrived at by an agreed multiple of the basic allowance. This process has been suspended from 1 April 2019.

(f) Subject to paragraph 5.10.10 the amount of each such allowance shall be the amount specified against that special responsibility in Table 2.

(g) 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.

(h) 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.

5.10.3 Travelling and Subsistence Allowance – Members

(a) A Member shall be entitled to receive appropriate travel and subsistence allowances where they necessarily incur expenditure on travel or subsistence in order to perform an approved duty.

(b) The amount of the allowance payable to a Member in respect of subsistence shall be the same as that approved by the Council in respect of officers of the Council who are paid officer rates.

(c) The subsistence allowance payable shall be increased or decreased to the same extent as determined by the Council in respect of officers.

(d) The allowance payable to a Member in respect of travel mileage shall be paid at the Inland Revenue approved rate[25].

(e) For the purposes of this paragraph, approved duties shall include all those duties specified in Part 1 of Schedule 2 to this Scheme.

5.10.4 Travelling and Subsistence – Co-opted Members

A Co-opted Member shall be entitled to receive a combined Travel and Subsistence Allowance of £10 per meeting.

5.10.5 Independent Person – Audit Committee

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[25] £0.55 per mile as of June 2026

Independent Persons co-opted onto the Audit committee to provide expert advice shall be entitled to receive an allowance of £800.

5.10.6 Dependent Carers Allowance

(a) A Member or Co-opted Member shall be entitled to receive a dependent carers allowance to provide for children or adult care, where they have necessarily incurred that expenditure in respect of a dependent who is looked after by a registered provider whilst the Member or Co-opted Member is carrying out an approved duty.

(b) The dependent carers allowance referred to in paragraph 5.10.5(a) shall be paid per hour and be in line with the national living wage and limited to 7 hours per week.

(c) The allowance will not be payable to a member of the claimant's own household.

(d) For the purposes of this paragraph, an approved duty is any duty listed in Part I of Schedule 2 to this Scheme.

5.10.7 Telephone / Broadband Allowance

A Member is entitled to an annual communications allowance of £15 towards telephone services and £10 towards broadband services. There shall however be only one claim per household with Members required to evidence the service annually.

5.10.8 Pensions

Members can opt-in to the Local Government Pension Scheme in accordance with the Local Government Pension Scheme (Amendment) (Elected Member Pensions) Regulations 2026.

5.10.9 Renunciation

A Member may, by giving notice in writing to the Monitoring Officer, 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 Monitoring Officer to withdraw it.

5.10.10 Part-year Entitlements

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

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

(i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or

(ii) 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.

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

(d) Where this Scheme is amended as mentioned in sub-paragraph 5.10.9(b), and the term of office of a Member does not subsist throughout the period mentioned in subparagraph 5.10.9(a), the entitlement of any such Member to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which their term of office as a Member subsists bears to the number of days in that period.

(e) Where a Member has during part of, but not throughout, a year such special responsibilities as entitle them to a special responsibility allowance, that Member's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.

(f) 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 the Chair is absent for more than two consecutive months, then the person who has acted as Chair shall be remunerated in place of the appointed Chair (on a pro rata basis).

(g) 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).

(h) Where this Scheme is amended as mentioned in sub-paragraph 5.10.9 and a Member has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 5.10.9(a) 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 they have such special responsibilities bears to the number of days in that period.

(i) 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.

5.10.11 Claims and Payments

(a) Payments of allowances shall be made as follows:

(i) Basic Allowances: Automatically Paid Monthly

(ii) Special Responsibility Allowances: Automatically Paid Monthly

(iii) Travel and Subsistence Allowance: Monthly (Claim)

(iv) Dependent Carers Allowance: Monthly (Claim)

(v) Co-optee Allowance: Monthly (Claim)

(b) All payments shall be made direct to a Bank or Building Society.

(c) 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.

(d) 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 Chief Officer responsible for Democratic Services.

(e) 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.

(f) Members should submit their claims by the 7th day of the month.

(g) The Monitoring Officer shall have authority to agree a different frequency of payment with an individual Member on request.

Schedule 1 - Special Responsibility Allowances (SRA)

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.

Table 2: Special Responsibility Allowances

Office	Number	Allowance	Total
Mayor	1	£55,952	£55,952
Deputy Mayor and Executive Member	1	£19,518	£19,518
Executive Members	7	£11,190	£78,330
Chair of Overview & Scrutiny Board	1	£11,190	£11,190
Chair of Licensing Committee	1	£8,393	£8,393
Chair of Planning & Development Committee	1	£8,393	£8,393
Chair of the Council	1	£5,595	£5,595
Chair of Corporate Affairs Committee	1	£5,595	£5,595
Chair of Audit Committee	1	£5,595	£5,595
Chair of Scrutiny Panels	3	£5,595	£16,785
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
Political Group Leaders:			
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

Total SRA (if all claimed)	**24**		**£234,931**

Schedule 2 - Travel & Subsistence Allowances

Part 1

Duties that may qualify for Travelling & Subsistence Allowances

(a) attendance at a meeting of the Council 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 Council, or of any Committee or Sub Committee of such a body;

(b) attendance at any other meeting, the holding of which is authorised by the Council, or a Committee or Sub Committee of the Council, or a Joint Committee of the Council 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 Council is divided into two or more political groups it is a meeting to which embers of at least two such groups have been invited; or

  (ii) if the Council is not so divided, it is a meeting to which at least two Members of the Council have been invited.

(c) attendance at a meeting of any association of authorities of which the Council is a member providing no other attendance / mileage allowance is paid;

(d) attendance at a meeting of the Executive or a meeting of any of its Committees, where the Council is operating executive arrangements;

(e) performance of any duty in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises;

(f) carrying out of any other duty approved by the Council or any duty of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the Council or of any of its Committees or Sub Committees. For the purpose of this section approved duties shall include the following:

  (h) 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.

(h) Travelling allowances may not be claimed for political group meetings.

Part 2 - Subsistence

(a) Subsistence allowances for meals and accommodation can be reimbursed to Members' for duties undertaken outside of the Borough. This allowance reflects the scheme in place for officers of the Council.

(b) Members are entitled to claim subsistence if their duties mean that they are away from the Council 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.

(c) 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 - Co-opted Members Travelling & Subsistence Allowances

Co-opted Members of the following Council bodies shall be entitled to receive a combined travel & subsistence allowance following production of a signed declaration that expenses had been incurred:

(a) Scrutiny Committees (including Overview & Scrutiny Board, Scrutiny Panels and Scrutiny Working Groups);

(b) Standards Committee (including Sub Committees and Panels);

(c) The Independent Panel on Members' Remuneration;

(d) Teesside Pension Fund Committee;

(e) School Appeal Panels.

5.11 Member Role Profiles

In addition to the expectations and responsibilities set out above in this Section 5, members are expected to discharge the following tasks:

5.11.1 Member

(a) attend and actively contribute to meetings of Full Council and any Council body as required;

(b) fulfil the statutory and locally determined requirements of a Member of the Council, including compliance with all relevant codes of conduct;

(c) develop and maintain a working knowledge of the Council's policies, and of the community's needs and aspirations in respect of the Council's roles and functions;

(d) participate in the activities, and attend all meetings, of any outside body to which they are appointed by the Council, providing two-way communication between the body and the Council;

(e) develop and maintain a working knowledge of service management arrangements, powers and duties, and constraints, in particular as they affect the area and communities the Member represents;

(f) develop good working relationships with relevant Members and Officers of the Council;

(g) actively participate in casework and Member surgeries, in order to address constituents' problems;

(h) act as a champion for, and represent the interests of, their local area and communities to the Council;

(i) promote open government and democratic renewal through encouraging their local community to participate in the governance of the area;

(j) act as champions for children looked after by the Council and ensure that all Committees (including Executive Committees) on which they serve fulfil their corporate parenting responsibilities;

(k) represent the Council's corporate parenting responsibilities in their involvement with outside bodies, in particular in relation to duties as a school governor.

5.11.2 Mayor

(a) provide strong and visible leadership to citizens, stakeholders and partners of the Council;

(b) lead on partnerships and strategic matters of significance to Middlesbrough on a local, sub-regional, regional and national basis;

(c) promote, wherever possible, public engagement in the work of the Council;

(d) lead the promotion of the core values and objectives of the Council;

(e) lead on the delivery of continuous improvement in Council services;

(f) promote high standards of conduct and ethics within the Council;

(g) be responsible for the Armed Forces Covenant;

(h) represent the Council and such external bodies as they decide;

(i) promote local strategic partnerships;

(j) report to Full Council on their activities;

(k) provide strong, fair leadership and clear guidance to Members and Officers;

(l) ensure that appropriate consultation is and involve local people and communities as fully as possible in Council decision-making;

(m) respond within agreed timescales to the recommendations of the Overview and Scrutiny Board, setting out what action is proposed, if any, and giving full reasons for decisions taken;

5.11.3 Deputy Mayor

(a) promote and co-ordinate liaison between the Mayor, the Executive and non-Executive Members;

(b) lead on corporate strategic issues, particularly in relation to Council performance and the Strategic Plan;

(c) promote and develop Member accountability, especially in relation to Members' performance, both in terms of the general framework and the one specific to Executive Members;

(d) lead on scrutiny especially where the scrutiny issues do not relate to individual Executive Portfolios;

(e) promote and develop Members' early and meaningful involvement in developing Council policy;

(f) lead on town twinning activities.

5.11.4 Executive Members

(a) provide strong, fair leadership and clear political guidance to Members, Officers and the community;

(b) develop and maintain a clear understanding of their Executive Portfolio, the scope and range of the areas for which they are responsible, and the Council's policies in respect of those areas;

(c) ensure the delivery of continuous improvement in Services within their portfolio, and the implementation of best practice in the Council;

(d) respect collective responsibility for decisions taken by the Executive;

(e) take decisions in accordance with the law and with procedures agreed by the Council and / or by the Mayor;

(f) attend regular meetings with Chief Officers responsible for Services which fall within the remit of their Executive Portfolio;

(g) attend meetings of the Executive and inform in advance if they are unable to attend;

(h) commission the Overview and Scrutiny Board to undertake work relevant to their portfolio on behalf of the Executive;

(i) respond within an agreed timescale to the recommendations of relevant Scrutiny Panels, setting out what action is proposed, if any, and giving full reasons for decisions taken;

(j) involve and consult non-Executive Members on matters within their portfolio, particularly Members of relevant Scrutiny Panel(s);

(k) be accountable to the Council in respect of matters relating to their Executive Portfolios.

5.11.5 Chair Of The Council

(a) preside over Council meetings and ensure business is carried out efficiently and with regard to the rights of Councillors and the Mayor and the interests of the community;

(b) ensure that Council meetings are a forum for the debate of matters of concern to the local community;

(c) promote public involvement in Council activities;

(d) promote the Council and act as a focal point for the community;

(e) be the “Member Development Champion”, chairing the Constitution and Member Development Committee and being responsible for the development, monitoring and review of the Member Development Policy and the annual Member Development Programme;

(f) encourage Members to undertake appropriate levels of training and development activities so they have the necessary skills and knowledge to fulfil their roles as Members of the Council.

5.11.6 Group Leader

(a) provide strong, fair leadership and clear political guidance to group members;

(b) act as the principal political spokesperson for the political group;

(c) act in a manner which is likely to promote rather than undermine the best interests of the Council and ensure that members of their political group act in a similar manner;

(d) encourage the high standards of conduct by members of the group and promote compliance with the Members’ Code of Conduct;

(e) encourage a culture of learning and development among members of the group, including the active participation of group members in briefings, seminars and other learning and development processes;

(f) establish and maintain effective working relationships with the Leadership Management Team and other Chief Officers, and to meet regularly in order to keep fully apprised of relevant Service issues;

(g) build effective relationships with other Councillors, stakeholders, Officers, communities and partners;

(h) enable the group to engage in constructive criticism and challenge, promoting alternatives or amendments offered by members of the group on proposed decisions of the Executive, where appropriate;

(i) ensure adequate liaison takes place with other political groups to further the interests of the Council;

(j) work with their group to formulate overall policy and priorities for the group;

(k) represent the Council on local, regional and national bodies, as appropriate.

5.11.7 Chair of the Overview and Scrutiny Board

(a) be consulted when less than 28 days, but more than 5 days, notice of intention to take a Key Decision is given on the Forward Work Programme (see paragraph 13.12.1(a)(i)a);

(b) agree that a Key Decision is urgent and should be taken with notice of 5 days or less being given on the Forward Work Programme of the intention to make the Key Decision (see paragraph 13.12.1(a)(ii)a);

(c) agree that a decision is urgent and should be exempt from call-in provisions (see paragraphs 7.6.19 and 7.6.22) and report this to full Council;

(d) agree that an urgent decision can be taken which is contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget (see paragraph 15.4.2(b));

(e) agree that a private meeting of the Executive, without the 28 days notice required by paragraph 14.15(a), should be permitted to consider an urgent decision in accordance with paragraph 14.15.(b)(i);

(f) agree with the Chair of the Council, in exceptional circumstances, that a scrutiny report should bypass consideration at Overview and Scrutiny Board (see paragraph 7.6.15(a));

(g) receive notification from the Executive as to why it has not considered an overview and scrutiny report within 8 weeks of it being added to the agenda (see paragraph 7.6.15(c)(iii));

(h) be consulted by the Monitoring Officer in relation to the validity of a call-in request (see paragraph 7.6.21(b));

(i) determine the dates and venues for meetings of the Overview and Scrutiny Board (see further paragraphs 7.6.3 and 7.6.21(d)), including extraordinary meetings;

(j) discuss with Chief Officers any concerns about the identity of officers requested to attend an Overview and Scrutiny meeting;

(k) be a member of the Constitution and Member Development Committee (see paragraph 10.9.1(d));

(l) provide strong, fair leadership and clear guidance to Members and Officers in relation to scrutiny functions;

(m) have overall responsibility for the direction of scrutiny in the Council, and for ensuring that an appropriate annual scrutiny work programme is set;

(n) continuously monitor and evaluate the relevance of the annual Scrutiny Work Programme, meeting Members and Democratic Service Officers as appropriate;

(o) meet with chairs of Scrutiny Panels on a regular basis to give advice and guidance on the working of their Panels;

(p) ensure that the work of the Overview and Scrutiny Board contributes to the delivery of continuous improvement in Services and implementation of best practice;

(q) monitor the Forward Work Programme;

(r) represent the views of Overview and Scrutiny at meetings of the Executive;

5.11.8 Scrutiny Panel Chairs

(a) provide strong, fair leadership and clear guidance to Members and Officers in relation to Scrutiny functions;

(b) develop a clear understanding of the terms of reference of their Scrutiny Panel, the scope and range of the areas for which it is responsible, and the Council's policies in respect of those areas;

(c) ensure the work of their Scrutiny Panel contributes to the delivery of continuous improvement in Services and implementation of best practice;

(d) agree agendas for Scrutiny Panel meetings, to take a lead in developing a forward agenda, and ensuring it is adhered to;

(e) meet with other Scrutiny chairs on a regular basis to discuss progress in the work of their Scrutiny Panel, discuss issues arising from the Scrutiny process, and note action being taken by the relevant Executive Members to address the concerns of their Scrutiny Panel;

(f) prepare and present their Scrutiny Panel's final report to the Overview and Scrutiny Board and the Executive.

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.

5.11.9 What is the legal position in relation to gifts and hospitality?

(a) The Bribery Act 2010 creates a number of criminal offences in relation to giving or offering someone a financial or other advantage to encourage them to carry out their functions or activities improperly or to reward them for having done so. Requesting, agreeing to receive or accepting the advantage offered is also bribery[26].

(b) 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[27].

5.11.10 What is a gift or hospitality?

(a) Offers of gifts and / or hospitality made to the Council may take many forms, including but not limited to:

(i) the provision of land, goods or services, either to keep or to test with a view to future acquisition,

(ii) an offer to carry out works;

(iii) sponsorship of a function which is organised or supported by the Council;

(iv) free gift of any goods or services;

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26 Bribery carries a maximum sentence of 10 years imprisonment and a fine.

27 Local Government Act 1972, section 117

(v) an 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;

(vi) an opportunity to obtain any goods or services which are not available to the general public; and

(vii) an offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

(b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:

(i) the Member, Officer or Council's (as appropriate), estimate of the cost to the Offeror of providing the gift or consideration; and

(ii) the open market price a member of the public would pay for the gift or hospitality (if made available commercially to the public), less the cash sum of any contribution which the Member, Officer or the Council (as appropriate) would be required to make toward that price to the Offeror.

General Principles

5.11.11 What does this Protocol cover?

(a) The purpose of this Protocol is to:

(i) outline the principles which a Member or an Officer should apply when deciding whether it would be proper to accept any gift and / or hospitality;

(ii) establish a procedure for Members and Officers to declare any offer of a gift and / or hospitality; and

(iii) establish a procedure by which the Council will consider any offer of gift and / or hospitality;

(b) This Protocol does not apply to any offer of hospitality that may be provided by the Council.

(c) Members and Officers must never solicit or invite an offer of a gift or hospitality in connection with their position and should not give any indication that they might be open to such an improper offer.

(d) Members and Officers should not solicit any such gift or hospitality 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 in accordance with this constitution.

(e) In the event of conflict between the provisions of this Protocol and the Member or Officer Code of Conduct, the Code of Conduct will prevail.

5.11.12 In what circumstances should gifts and hospitality not be accepted?

Members and Officers should:

(a) never accept a gift or hospitality as an inducement or reward for anything they do as a Member or an Officer;

(b) always act in the public interest and 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;

(c) comply with the obligations of their respective Code of Conduct:

(i) the Members' Code of Conduct (paragraph 8.9.42) 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;

(ii) the Officers' Code of Conduct (paragraph 9.11.24) specifically requires Officers to comply with this Protocol.

(d) never accept a gift or hospitality if acceptance might be open to misinterpretation as:

(i) the appearance of impropriety can be as damaging to the Council, 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:

a. favour any particular person, company or section of the community; or

b. are under any improper obligation to any person or organisation.

If there is any possibility that the offer might be so interpreted, it must be handled as set out in paragraph 5.11.12.

(ii) certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:

a. occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;

b. 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

c. funding decisions, when the Council is determining a grant application by any person or organisation.

(e) never accept a gift or hospitality which puts them under an improper obligation.

(f) recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. Accepting a gift or hospitality improperly may open Officers and Members to the risk of being persuaded to determine an issue in favour of the organisation or individual providing that offer. Equally, if others note that a Member or Officer has accepted a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

5.11.13 When may gifts and hospitality be accepted?

(a) The Council has agreed that, provided the general principles set out in paragraph 5.11.12 are not breached, Members and Officers may accept offers of gifts and / or hospitality in the following circumstances:

(i) civic hospitality provided by another public authority;

(ii) modest refreshment in connection with any meeting in the ordinary course of a Member or Officer's work, such as tea, coffee, soft drinks and biscuits;

(iii) tickets for sporting, cultural and entertainment events which are sponsored by the Council;

(iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. Such items should not be displayed if this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;

(v) a modest working lunch in the course of a business meeting in the offices of a third party where this is required in order to facilitate the conduct of that business;

(vi) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to that authority;

(vii) hospitality received in the course of an external visit or meeting which has been duly authorised by the Council; and

(viii) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift.

(b) Gifts and / or hospitality accepted in accordance with the above general consents need not be recorded further.

(c) Any offer of a gift or hospitality which does not fall within any of the general consents set out in paragraph 5.11.12 (a) above, must be handled in accordance with paragraph 5.11.12.

5.11.14 How should offers of gifts and hospitality be reported and recorded?

(a) If a Member or an Officer receives an offer on behalf of the Council which falls outside the general consents set out in paragraph 5.11.12, regardless of value, they must:

(i) 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); and

(ii) consult the Monitoring Officer directly about the offer, providing a view as to whether the gift or hospitality should be accepted.

(b) Offers of gifts or hospitality with an estimated market value of £25 or greater must, as soon as possible after receipt of the offer, be notified to the Monitoring Officer via the relevant form on the intranet as to:

(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 ("the Offeror"), 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 the Offeror 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 may or may not be improper.

Declared information will be retained for audit purposes.

(c) Where an Officer or 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 5.11.14 (b) to promote transparency.

(d) The Monitoring Officer will determine, in consultation with the Head of Paid Service if appropriate, whether to accept or reject the offer and ensure that the Offeror is contacted to thank them for the gift and inform them that it has been either:

(i) donated 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; or

(ii) retained by the relevant Member or Officer; or

(iii) rejected and seek confirmation as to how the gift or hospitality can be returned.

(e) The Monitoring Officer will retain the details of all declarations in relation to offers of gifts and hospitality in a register which will be available for public inspection.

(f) It is the responsibility of the individual Member or Officer making the declaration to the Monitoring Officer to provide all relevant information and ensure that the declaration is recorded in the register.

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 and the Executive Procedure Rules (EPR).

4.2 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.

4.3 What form does the Executive take?

The Executive consists of the Mayor and at least two, but not more than nine, Councillors.

The Mayor

4.4 Is the Mayor elected in the same way as Councillors?

The Mayor is not elected to represent a ward like councillors are, rather they are elected by the whole Borough to lead the Council in the position of Mayor of the Council – see further paragraph 5.3.

4.5 Is the Mayor a Councillor?

6.4.1 The directly elected Mayor is not a Councillor but the same rules apply to the Mayor and councillors unless the law or context requires otherwise[28]. In particular, the Mayor:

(a) is subject to the same rules about qualification and disqualification as Councillors;

(b) may be a member of, attend and speak at any meeting of the Council, its Committees and sub-committees, except the Overview and Scrutiny Board and its sub-committees. The Mayor may only speak at an Overview and Scrutiny Board or sub-committee when invited to do so and may not vote at those meetings; and

(c) is subject to the same rules about casual vacancies as apply to all Councillors.

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[28] The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002, paragraph 2.

6.4.2 All relevant provisions of this Constitution apply to the Mayor in the same way as to Councillors except as otherwise stated.

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

4.6 Can the Mayor stand for election as a Councillor well as standing for election to the role of directly elected Mayor?

An individual can stand for election to the office of Councillor and that of directly elected Mayor when elections take place at the same time[29].

4.7 What happens if the Mayor ceases to hold office?

If the Mayor ceases to be Mayor before the end of their term of office, the Deputy Mayor will act as Mayor until an election is held. The election must be held within 35 days of notification of the vacancy.

4.8 What is the Mayor's role?

In addition to the role of a Member, 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 and / or appointing to outside bodies for Executive Functions;

(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.

The Deputy Mayor

4.9 How is the Deputy Mayor appointed?

6.7.1 At the first Annual Meeting of the Council after their election, the Mayor will confirm which Executive Member shall be Deputy Mayor.

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[29] Subject to Section 9HA of the Local Government Act 2000

6.7.2 The Deputy Mayor will hold office until the end of the Mayor's term of office unless they:

(a) are no longer a Member of the Council or the Executive;

(b) resign as Deputy Mayor; or

(c) are removed from the position by the Mayor.

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

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

4.10 What is the Deputy Mayor's role?

6.8.1 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.

6.8.2 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.

6.8.3 The Deputy Mayor is also the Mayor's deputy as representative on the Tees Valley Combined Authority.

4.11 How is the Deputy Mayor removed from office?

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

The Executive

4.12 Who can be appointed to the Executive?

6.10.1 The Mayor will appoint their Executive from among the Councillors, subject to paragraph 6.2.

6.10.2 No Member may be co-opted to the Executive.

6.10.3 Executive Members may not have deputies or substitutes.

6.10.4 The Chair and the Vice Chair of the Council may not sit on the Executive.

4.13 How are Executive Members appointed?

6.10.5 Subject to section 4.3, 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.

6.10.6 Executive Members will hold office until:

(a) their appointment is terminated by the Mayor;

(b) they resign from the Executive; or

(c) they are no longer a Councillor.

4.14 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.

4.15 How will the proceedings of the Executive be conducted?

Proceedings of the Executive will take place in accordance with the Executive Procedure Rules set out at paragraph 6.17.

4.16 Who is responsible for the discharge of Executive Functions?

The Mayor will maintain a list setting out who is responsible for discharging Executive Functions (individual Executive Members, Executive Committees, Officers or Joint Arrangements) known as the Executive Scheme of Delegation, which is set out at Part C of Section 10.

4.17 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 – Responsibility for Functions – Part C and D (executive delegations);

(d) Section 11 – Alternative Service Delivery Vehicles;

(e) Section 13 – Decision-Making;

(f) Section 14 – Access to Information Procedure Rules.

6.17 The Executive Procedure Rules

The arrangements for the discharge of executive functions are determined by the Mayor and noted by Full Council. The Mayor has adopted these Executive Procedure Rules ('EPR') to provide clarity and structure to the discharge of the executive functions. Accordingly, the EPR apply to the operation of Executive Committees in the same way as they apply to the Executive, and references to the Mayor shall be understood as references to the Chair of the relevant executive committee.

Exercise of Executive Functions

6.10.7 **Who can make Executive decisions and how will the arrangements be publicised?**

(a) Executive Functions may be exercised by the Mayor personally or they may delegate authority to exercise Executive Functions on their behalf (to the extent they determine) to one or more of the following:

(i) the Executive as a whole;

(ii) an Executive Committee;

(iii) an Executive Member;

(iv) an Officer;

(v) an Executive Joint Arrangement; or

(vi) the Executive of another local authority.

(b) The Mayor will present the Full Council with a record of the Executive delegations they have made for inclusion in the Scheme of Delegations. The record presented to the Council must contain the following information:

(i) the names, contact details and Wards of the people appointed to the Executive by the Mayor;

(ii) the extent of any authority delegated to each of those Executive Members individually, including the limit on that authority;

(iii) 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;

(iv) the nature and extent of any delegation of Executive Functions to any other local authority or joint arrangement, and the names of any Executive Member appointed to a joint committee; and

(v) 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.

(c) The Mayor may amend the delegation of Executive Functions at any time by written notice setting out the change to be made to:

(i) the Proper Officer; and

(ii) the person, body or committee concerned.

The notice must set out the extent of the amendment to the scheme of delegation including any withdrawal of delegation from any person, body or committee.

(d) Where the Mayor withdraws or changes a delegation to an Executive Committee, notice of this change to the Chair of the Executive Committee will be deemed to be notice to that Executive Committee.

(e) The Proper Officer shall inform all Councillors of any change to the Executive Scheme of Delegation within five days and report it at the next ordinary meeting of the Council.

(f) Any change to the Executive Scheme of Delegation takes effect on the date nominated by the Mayor.

6.10.8 **Can the Executive sub-delegate authority delegated to it?**

(a) The Executive may sub-delegate a delegated authority to an Executive Committee, an Officer, any Joint Arrangement, or another local authority, unless the Mayor directs otherwise.

(b) An Executive Committee may sub-delegate a delegated authority to an Officer, unless the Mayor directs otherwise.

(c) The delegation of an Executive Function does not prevent the delegator from exercising the Executive Function.

Conflicts Of Interest

6.10.9 **What happens if the Mayor or Executive Member(s) have a conflict of interest?**

(a) If the Mayor has a conflict of interest in relation to an Executive matter, this should be dealt with in accordance with the Member Code of Conduct at paragraph 8.9.

(b) If every Executive Member has a conflict of interest in relation to an Executive matter this should be dealt with as set out in the Member Code of Conduct in paragraph 8.9.

(c) If a conflict of interest arises in relation to the exercise of an Executive Function delegated to a committee of the Executive, an individual

member or an officer, the function will be exercised in the first instance by the delegator and otherwise as set out in the Member Code of Conduct in paragraph 8.9.

Meetings Of The Executive

6.10.10 **When and where are Executive meetings held?**

(a) The Executive shall meet at least 10 times a year on the dates and times determined by the Mayor. The meeting shall take place at the Council's main offices or another location determined by the Mayor.

(b) Meetings of the Executive shall be convened in accordance with the Access to Information Procedure Rules in Section 14.

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

(a) The Mayor will notify the Proper Officer of the meeting arrangements.

(b) The Proper Officer will issue the summons to the meetings in accordance with the provisions of the Access to Information Procedure Rules at Section 14.

(c) The Access to Information Procedure Rules set out the arrangements for access to the agenda and reports for each meeting.

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

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

6.10.13 **Who Chairs a meeting of the Executive?**

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.

6.10.14 **Who may attend Executive meetings?**

(a) Members of the public are entitled to attend public Executive meetings[30] in accordance with the provisions of the Access to Information Procedure Rules set out at Section 14.

(b) Members of the public may be excluded from a private meeting or part of a public meeting for reasons set out in the Access to Information Procedure Rules at paragraph 14.11.

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30 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Part 2

(c) Other Councillors, Officers and external stakeholders may be invited to 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.

(d) Statutory Chief Officers are entitled to attend any Executive meeting, whether public or private.

6.10.15 **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.

6.10.16 **How are private meetings of the Executive convened?**

Private Executive meetings are convened in accordance with the provisions of the Access to Information Procedure Rules set out at paragraph 14.15.

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

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

(a) consideration of the minutes of the last meeting;

(b) declarations of interest, if any;

(c) announcements from the Mayor;

(d) questions on notice from members of the public;

(e) questions on notice from Councillors;

(f) matters referred to the Executive (whether by the Overview and Scrutiny Board or a Scrutiny Panel, or by Full Council) for reconsideration in accordance with the Overview and Scrutiny Procedure Rules set out in Section 7 or the Budget and Policy Framework Procedure Rules set out in Section 15;

(g) consideration of reports from the Overview and Scrutiny Board or a Scrutiny Panel;

(h) reports from Member bodies which are the responsibility of the Executive; and

(i) matters set out in the agenda for the meeting.

6.10.18 **Who can put items on the Executive agenda?**

(a) The Mayor can put any matter on the agenda of any Executive meeting whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.

(b) Any member of the Executive may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.

(c) The Head of Paid Service, the Monitoring Officer and / or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require that such a meeting be convened in pursuance of their statutory duties.

Executive Reports

6.10.19 **What information should Executive reports contain?**

All reports to the Executive requiring a decision should comply with the provisions of paragraph 13.9.

Questions

6.10.20 **Questions from the public**

(a) Members of the public may ask questions of the Mayor and Executive Members about any matter listed on the agenda for a meeting of the Executive. Notice of the question must be given by delivering it in writing or by electronic mail to the Proper Officer no later than 5.00 pm three clear days before the date of the meeting.

(b) Questions on notice from the public will be asked at the time that the agenda item concerned is being considered.

(c) Each question must give the name and address of the questioner.

(d) One supplemental question may be asked arising from the answer to the question.

6.10.21 **Questions from Councillors**

(a) A Councillor may ask questions of the Mayor or Executive Members at a meeting of the Executive provided that:

(i) notice of the question has been given in writing or by electronic mail to the Proper Officer no later than 5.00 pm three clear days before the date of the meeting;

(ii) the Councillor identifies the capacity in which the question is being asked (i.e. Ward Councillor, Committee Member etc);

(b) The Councillor may ask one supplementary question arising from the answer.

6.10.22 **Questions Generally**

(a) Questions should specify to whom the question is addressed. Any questions not identifying a responder will be answered by the most appropriate Executive Member, determined by the Mayor.

(b) The Mayor shall decide if a question (from a Member or the public) is appropriate to be raised at an Executive meeting.

(c) The Mayor, on the advice of the Monitoring Officer, may reject a question if any of the criteria set out at paragraph 4.8.7(b) of the Council Procedure Rules apply.

(d) Accepted questions will immediately be sent to the Executive Member it has been put to.

(e) Rejected questions will have the reason for rejection provided to the questioner.

(f) Questioners will be allowed two minutes to ask their question.

(g) The Mayor will invite the questioner to put the question. An absent questioner may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

(h) The responding Executive Member will be allowed three minutes to respond to the question put to them.

(i) Unless the Mayor decides otherwise, no discussion will take place on any question.

(j) An answer may take the form of:

(i) a direct oral answer at the meeting;

(ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

(iii) where the reply cannot conveniently be given orally, a written answer to the questioner, published by the Council.

(k) The questions asked at the meeting, and the responses, will be referred to in the minutes of the meeting.

Key Decisions and the Forward Work Programme

6.10.23 **Where are the provisions for taking Key Decisions set out?**

(a) The definition of a Key Decision is contained within the Decision Making Section at Section 13.

(b) Details on the processes and information around Key Decisions are set out in the Decision Making Section (Section 13) and the Access to Information Procedure Rules (Section 14).

(c) Details on challenging Key Decisions are contained within the Overview and Scrutiny Procedure Rules[31].

(a) All Key Decisions are Executive Functions.

6.10.24 **How will the intention to take a Key Decision be publicised?**

The intention to take a Key Decision will be published in accordance with the provisions set out at paragraph 13.12.

6.10.25 **What does the Forward Work Programme contain?**

(a) The Forward Work Programme will contain the following details, in so far as the information is available or might reasonably be obtained:

(i) the matter in respect of which a decision is to be made;

(ii) 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;

(iii) the date on which, or the period within which, the decision will be taken;

(iv) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

(v) the means by which any such consultation is proposed to be undertaken;

(vi) 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

(vii) a list of the documents submitted to the decision taker for consideration in relation to the matter.

(b) The Forward Work Programme will also contain matters which are non-Key Decisions but are considered to be of significance to the Council however non-Key Decisions are not subject to any notification timescale.

6.10.26 **How and when can Key Decisions be challenged?**

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[31] Commonly referred to as “call-in”

The provisions for calling-in Key Decisions are set out within the Overview and Scrutiny Procedure Rules commencing at paragraph 7.6.17.

7 Overview And Scrutiny

Overview and Scrutiny[32] is a statutory function which counterbalances the power given to councils operating executive models of governance. This section provides information as to how this obligation will be discharged by the Council.

7.1 What is Overview and Scrutiny?

7.1.1 The Council is required by law to discharge overview and scrutiny functions, which it does by appointing powerful Overview and Scrutiny committees (called Scrutiny Panels). The scrutiny panels report to an Overview and Scrutiny Board. Together, they contribute to the development of Council policies and hold the Executive to account for its decisions. These functions are an essential component of local democracy.

7.1.2 In discharging its overview and scrutiny function, the Council must have regard to statutory guidance[33] and the four principles of good scrutiny:

(a) Provide constructive “critical friend” challenge;

(b) Amplify the voices and concerns of the public;

(c) Be led by independent people who take responsibility for their role;

(d) Drive improvement in public services.

7.1.3 Scrutiny should therefore be carried out in a constructive way and contribute to the delivery of efficient and effective Council services that meet the needs and aspirations of local citizens, fulfilling the Council Plan. Scrutiny panels should not shy away from challenging and questioning decisions and making constructive criticism. The overview and scrutiny process should not be political.

7.2 What is the role of Overview and Scrutiny?

7.2.1 The Council has appointed an Overview and Scrutiny Board (see paragraph 10.12) which is responsible for:

(a) reporting annually to Council on the workings of the overview and scrutiny process;

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32 Section 21 of the Local Government Act 2000

33 https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-combined-authorities-and-combined-county-authorities

(b) reviewing and scrutinising 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 of decisions made but not yet implemented by the Executive and Officers;

(f) assisting in conducting reviews of the budget and policy framework and its implementation; and

(g) responding to Executive consultation requests.

7.2.2 The Council confers its powers of overview and scrutiny, including the power of referral to the Secretary of State for Health, to the health scrutiny joint committees for the region[34], which will:

(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

(d) make reports and / or recommendations to local NHS bodies and to the local authority.

7.3 What are the overview and scrutiny functions?

Policy Development and Review

7.3.1 The Overview and Scrutiny Board and scrutiny panels may, within their terms of reference:

7.3.1 assist the Council and the Executive in the development of the budget and policy framework by in-depth analysis of policy issues;

7.3.2 conduct research, including community and other consultation in the analysis of policy issues, impacts and possible options;

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[34] The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, section 21

7.3.3 consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

7.3.4 question Executive Members, Committees and appropriate Officers about issues or proposals affecting the Borough, including budget proposals;

7.3.5 liaise with organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Scrutiny

7.3.2 The Overview and Scrutiny Board and scrutiny panels may, within their terms of reference:

(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;

(c) question Executive Members, Committees and appropriate Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

(d) make recommendations to the Executive and / or the Council arising from the outcome of the scrutiny process;

(e) 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 or scrutiny panels and local people about their activities and performance; and

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

Finance and Resources

7.3.3 The Overview and Scrutiny Board will contribute to the oversight of the budget allocated to the scrutiny function.

7.3.4 The Overview and Scrutiny Board and scrutiny panels may exercise their powers, utilising the resourcing support model the Council has put in place.

Annual report

7.3.5 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 How are the proceedings of the Overview and Scrutiny Board managed?

Overview and Scrutiny Board and scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in this section 7. In doing so they will champion:

(a) Accountability – an environment where responsibility for services and decisions is clear and where those holding responsibility can and are answerable for success and failure;

(b) Transparency – the publication, proactively, of information relating to services and decisions to allow local people, and others, to hold policymakers and decision-makers to account;

(c) Involvement – rules, principles and processes whereby a wide range of stakeholders (including elected representatives) can play active roles in holding to account, and influencing and directing the development of policy.

7.5 What are Scrutiny Panels and how are they managed?

7.5.1 The Overview and Scrutiny Board will determine the number and format of its sub-committees, known as Scrutiny Panels, to be appointed and their terms of reference. Scrutiny Panels must:

(a) be politically balanced;
(b) not include the Chair or any Executive Member;

and can co-opt individuals as appropriate.

7.5.2 The Council also participates in regional health scrutiny joint committees as follows:

(a) Durham, Darlington, Teesside, Hambleton, Richmondshire and Whitby Sustainability and Transformation Plan Joint Overview and Scrutiny Committee;

(b) North East Joint Health Scrutiny Committee;

(c) South Tees Health Scrutiny Joint Committee;

(d) Tees Valley Health Scrutiny Joint Committee.

7.5.3 The terms of reference for each of the overview and scrutiny arrangements set out above are contained within the Responsibility for Functions at Part B of Section 10.

7.6 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 appointed by the Council.

7.6.1 What are the arrangements for Overview and Scrutiny?

(a) The Council will have an Overview and Scrutiny Board and scrutiny panels as set out in this Section 7.

(b) The Full Council will appoint the members of any “standing” scrutiny panels at Annual Council and thereafter as appropriate from time to time. The Overview and Scrutiny Board may appoint sub-committees on an ad hoc basis.

(c) The Council or the Overview and Scrutiny Board may also appoint additional scrutiny panels to undertake specific time-limited reviews. These scrutiny panels may be appointed for a fixed period on the expiry of which they shall cease to exist.

7.6.2 Who can be a member of the Overview and Scrutiny Board or a scrutiny panel?

(a) Any Member, apart from Executive Members and the Chair, can be appointed to the Overview and Scrutiny Board or a scrutiny panel.

(b) No Member may be involved in scrutinising a decision in which they have been directly involved.

(c) Where the relevant chair considers it appropriate, religious group representatives and parent governor representatives will be appointed to the Overview and Scrutiny Board and to any scrutiny panel whose remit includes responsibility for the scrutiny of education. They may also be invited to attend any other scrutiny panel considering education and related matters if the chair deems it necessary or appropriate. Such representatives, when appointed, will have the right to participate in any meeting that considers education and related matters and shall be entitled to vote on any question:

(i) which relates to any education functions which are the responsibility of the Executive; and

(ii) which falls to be considered at the meeting.

7.6.3 What are the arrangements for meetings?

(a) The Overview and Scrutiny Board will, as a minimum, meet on six occasions in each municipal year, on dates, and at venues, determined by the chair of the Overview and Scrutiny Board.

(b) Additional meetings of the Overview and Scrutiny Board may be called as and when considered appropriate by:

(i) the chair of the Overview and Scrutiny Board or the relevant scrutiny panel;

(ii) any five Members (including voting Co-Opted Members, where they have been appointed) of the Overview and Scrutiny Board or the relevant scrutiny panel; or

(iii) the Proper Officer.

(c) The standing scrutiny panels will each meet at least six times in a municipal year, on dates and at venues to be determined by the relevant chair in consultation with the Proper Officer.

(d) Ad hoc scrutiny panels will meet on dates, and at venues, to be determined by the relevant chair in consultation with the Proper Officer.

7.6.4 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 or one quarter of the whole membership (including, in respect of education matters, Co-Opted Members).

7.6.5 Who chairs Overview and Scrutiny meetings?

(a) Chairs and Vice Chairs of committees are appointed by Annual Council.

(b) The Overview and Scrutiny Board will nominate a Chair and Vice Chair for any ad hoc committee it appoints.

(c) In the absence of a Chair the Vice-Chair can exercise the powers of the Chair.

Management of the Overview and Scrutiny process

7.6.6 How is the Overview and Scrutiny Board work programme set?

(a) 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:

(i) wishes of members of all political parties represented in its membership;

(ii) decisions, timetable for decisions and intentions for consultation published by the Executive.

(b) The Overview and Scrutiny Board will:

(i) where matters fall within the remit of more than one scrutiny panel, decide which scrutiny panel will assume responsibility, or undertake the scrutiny itself;

(ii) ensure that referrals 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;

(iii) at the request of the Executive, prioritise 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.

7.6.7 How are items added to the Overview and Scrutiny Board and scrutiny panel meeting agendas?

(a) Any member of the Overview and Scrutiny Board or a scrutiny panel shall be entitled to submit relevant items[35] to the Proper Officer for inclusion on the agenda for the next available meeting. Seven clear days notice of the item should be given together with sufficient information to enable the Proper Officer to advise about the nature and purpose of the item.

(b) Reports and findings from scrutiny panels will be considered by the next Overview and Scrutiny Board, unless this is within seven clear days of the next meeting, in which case it may be deferred to the next available meeting.

(c) The Overview and Scrutiny Board will respond, as soon as the work programme permits, to requests from the Council and / or the Executive to review particular areas of Council activity. They will report their findings and any recommendations back to the Executive and / or Council. The Council and / or the Executive shall consider such a report within one month of receiving it.

7.6.8 What business will a scrutiny meeting consider?

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[35] Section 9F(2) and 9FC of the Local Government Act 2000 in conjunction with the Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities published on 22 April 2024

The Overview and Scrutiny Board and scrutiny panels shall consider the following business:

(a) minutes of the last meeting;

(b) declarations of interest;

(c) consideration of any matter referred to the Board or Committee for a decision in relation to call in of a decision;

(d) responses of the Executive to reports of the Overview and Scrutiny Board;

(e) the business otherwise set out on the agenda for the meeting.

7.6.9 What is the role of Overview and Scrutiny in policy review and development?

(a) 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 at Section 15.

(b) 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.

(c) 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.

7.6.10 To what documents do members of the Overview and Scrutiny Board and Scrutiny Panels have access?

(a) In addition to their rights as Councillors, members of the Overview and Scrutiny Board and scrutiny panels have additional rights to documents, and to notice of meetings as set out in the Access to Information Procedure Rules at Section 14.

(b) 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.

7.6.11 When and how can Members and Officers be called to give account?

(a) 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 or Deputy Chief Officer to attend in relation to matters within their remit, and it is the duty of those persons to attend if so required.

(b) Other officers may be requested to attend a meeting of the Overview and Scrutiny Board or a scrutiny panel after consultation with the relevant Chief Officer. 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. In the absence of consensus, the Head of Paid Service shall determine who is the most appropriate Officer to attend.

(c) 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 clear 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.

(d) 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.

(e) 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.

7.6.12 Who else can attend Overview and Scrutiny meetings?

(a) The Overview and Scrutiny Board or a scrutiny panel may invite people other than Members and Officers to address them, discuss issues of local concern and / or answer questions, such as residents, stakeholders and members and officers in other parts of the public sector.

(b) The Chair and the Vice-Chair of the Overview and Scrutiny Board shall be entitled to attend each scrutiny panel as an ex-officio member.

(c) The Overview and Scrutiny Board or a scrutiny panel can request an officer or representative of an outside body to attend to answer questions about any scrutiny matter that is under review[36].

(d) Any scrutiny panel set up to review and scrutinise health services may require information to be provided by certain NHS bodies about the planning, provision and operation of health services that is reasonably needed to carry out health scrutiny and / or require employees including non-executive directors of certain NHS bodies to attend before them to answer questions.

7.6.13 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.

7.6.14 What information will Overview and Scrutiny reports contain?

The reports and or recommendations prepared at the conclusion of an overview and scrutiny process will:

(a) explain the matters reviewed or scrutinised;

(b) summarise the evidence received;

(c) set out how relevant information has been considered;

(d) list the participants involved in the process;

(e) identify any recommendations on the matter reviewed or scrutinised.

7.6.15 How will Overview and Scrutiny reports be considered?

(a) Scrutiny panels will submit formal reports to the Overview and Scrutiny Board for consideration before submission to the Executive, an Executive Member or Full Council. In exceptional circumstances the Chair of the Overview and Scrutiny Board and the Chair of the Council

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36 Health and Social Care Act 2001 and Local Government and Public Involvement in Health Act 2007

may agree that a report bypass consideration at the Overview and Scrutiny Board.

(b) The Overview and Scrutiny Board will submit reports with recommendations to the Proper Officer for inclusion on the agenda of the next available meeting of:

(i) the Executive (if the proposals are consistent with the existing Budget and Policy Framework); or

(ii) Full Council (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

(c) The Council or the Executive shall consider the overview and scrutiny report at their next available meeting – usually within eight weeks of it being added to the agenda.

(i) If the Executive fails to consider the overview and scrutiny report within that time (unless it has considered the issues during deliberations on a substantive item on the agenda), the Executive shall notify the Chair of the Overview and Scrutiny Board of the reasons and the Proper Officer will call a meeting of the Council to consider the overview and scrutiny report and make recommendations to the Executive.

(ii) Where an overview and scrutiny report relates to a matter delegated to an individual Executive Member, they shall have four weeks to consider and respond in writing to the report before attending a meeting of the Overview and Scrutiny Board to present their response.

7.6.16 What are the arrangements for scrutiny of health matters?

Any Scrutiny Panel established to review and scrutinise health services shall in addition to the above Overview and Scrutiny Procedure Rules:

(a) have regard to regulations and guidance on health scrutiny matters issued by the Secretary of State;

(b) invite interested parties to comment on matters under review; and

(c) take account of any relevant information available, including any relevant information provided by a patients' forum.

Call-in procedure

7.6.17 What is call-in?

(a) Executive decisions which have been made but not yet implemented may be “called in” for consideration by a local authority’s scrutiny

function[37]. This includes decisions made by the Executive (collective, individual or under joint arrangements) and Key Decisions which have been delegated to Chief Officers.

(b) The Overview and Scrutiny Board has responsibility for managing the call-in process as set out in these Overview and Scrutiny Procedure Rules.

(c) The power to call-in a decision should be used in exceptional circumstances only and not in respect of day-to-day management and operational decisions.

7.6.18 Which decisions can be called-in?

The following decisions may be called-in:

(a) a decision taken collectively by 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.

7.6.19 Which decisions cannot be called-in?

The following decisions may not be called-in:

(a) a decision to which section 7.6.18 does not apply;

(b) a decision that has been Called-in previously;

(c) a decision relating to a policy or budget matter which requires the approval of Full Council;

(d) a decision that has been implemented following a recommendation from the Overview and Scrutiny Board and / or a scrutiny panel;

(e) operational decisions taken by an officer (see paragraphs 13.10 to 13.15);

(f) urgent decisions where the Chair of Overview and Scrutiny Board has agreed the grounds for urgency (see paragraph 13.12.)

7.6.20 When can call-in be triggered?

(a) Decisions in relation to Executive Functions must be published within two clear 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.

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[37] Local Government Act 2000, section 9F and Localism Act 2011, Schedule 2

(b) The notice of executive decision will specify the date of publication of the decision and that, if not called in, the decision will come into force (and may be implemented) on the expiry of five clear days from the date of publication.

(c) During the five working day call-in period, any five Members (including voting Co-opted Members in respect of education matters) may request that the decision be called in for scrutiny by the Overview and Scrutiny Board.

(d) Decisions may be implemented from the sixth working day following their publication unless a valid call-in has been received by Democratic Services.

(e) 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.

7.6.21 What is the process for calling-in a decision?

(a) A completed "Scrutiny Call-in Request Form" must be submitted to Democratic Services by 4.00 pm on the fifth clear day after publication of the relevant executive decision. The notice must contain the names of the five non-Executive Members calling-in the decision along with the reasons for the call-in (having regard to the principles of decision making set out in Section 13. Members who have a prejudicial interest in the decision may not sign a Call-in Form.

(b) 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 of the completed Scrutiny Call-in Request Form.

(c) The Monitoring Officer may reject a call-in request if, in their opinion, the request does not demonstrate prima facie evidence of:

(i) inadequate consultation with stakeholders prior to the decision being made;

(ii) inadequate or inaccurate evidence being relied upon and / or not all relevant matters being fully taken into account by the decision-maker;

(iii) a departure from the budget and policy framework;

(iv) the decision being disproportionate to the desired outcome;

(v) a failure to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;

(vi) failure to consult with, take professional advice from, and have regard to the advice of, relevant officers including the Monitoring Officer and the Chief Finance Officer, or

(vii) the decision exceeds the powers or terms of reference of the decision-maker responsible for the decision

or is vexatious, frivolous, or otherwise inappropriate.

(d) Democratic Services will notify the decision-maker and all Members of the call-in and arrange a meeting of the Overview and Scrutiny where possible in consultation with the chair of the Overview and Scrutiny Board, and in any event no later than 10 clear days from the date of the Scrutiny Call-in Request Form.

(e) The signatories to the Scrutiny Call-in Request Form should attend the Overview and Scrutiny Board meeting to explain the reasons for the call-in.

7.6.22 Does call-in apply to urgent decisions?

(a) 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. Such decisions must be identified by the 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. The decision will be exempt from call-in if the decision-maker has the agreement of:

(i) the Chair of the Overview and Scrutiny Board; or

(ii) in the absence of the Chair of the Overview and Scrutiny Board, the Chair of the Council; or

(iii) in the absence of the Chair, the Vice Chair of the Council.

(b) Urgency will only be agreed if any delay in implementation likely to be caused by the call-in process would seriously prejudice the interests of the Council or the public.

(c) Decisions taken as a matter of urgency must be reported to the next available meeting of Full Council by the Chair of the Overview and Scrutiny Board, together with the reasons for urgency.

7.6.23 How is a called in decision scrutinised?

(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 as follows:

(i) after the Chair opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;

(ii) on matters of relevance to a particular ward, ward members who are not signatories to the call-in may address the meeting, such speeches not to exceed five minutes each. They will take no further part in the discussion or vote. Ward members must register their desire to speak by contacting Democratic Services by 12 noon one working day prior to the call-in meeting;

(iii) the relevant Executive Member(s) will then be invited to make any comments;

(iv) the relevant Chief Officer or their representative will advise the Board on the background and context of the decision and its importance to achieving Service priorities;

(v) Board members will ask questions of members and officers in attendance;

(vi) the Executive Members will be invited to make any final comments on the matter.

(b) Every effort will be made to deal with the call-in at the first meeting. However, in exceptional circumstances, the meeting may be adjourned to a fixed future date and time 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 required to attend.

(c) If the meeting is adjourned as set out in section 7.6.23(b), 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.

(d) If the Overview and Scrutiny Board 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. The Monitoring Officer and / or the Chief Finance Officer will prepare a report in respect of the issue, which will 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 report.

(e) After considering the information provided, the Overview and Scrutiny Board will make one of the following decisions:

(i) take no further action, in which case the decision will take effect immediately;

(ii) refer the decision back to the decision-maker for reconsideration, setting out the nature of the Board's concerns; the decision-maker must then re-consider the matter with a further ten clear days, taking into account the concerns of the Overview and Scrutiny Board, before making a final decision;

(iii) refer the matter to full Council, in which case paragraph (f) below will apply; or

(iv) refer the matter to a scrutiny panel for further consideration and report back to the Board within a specified period not exceeding 14 days, in which case the Board will, at its reconvened meeting take one of the decisions set out above; if the Board does not reconvene within 14 days or does reconvene but does not refer the matter back to the decision maker or to the full Council, the decision will take effect on the date of the reconvened Board meeting or the expiry of that further 14 day period, whichever is the earlier

(f) If the matter is referred to Full Council and not objected to, no further action is necessary and the decision will be effective in accordance with the provision at paragraph (g) below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to, or not wholly consistent with, the budget (in which case the provisions of paragraph (h) will apply. The Council will therefore refer any decision to which it objects back to the decision maker, together with the Council's views on the decision. The decision-maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting will be convened to reconsider within ten clear days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten clear days of the Council request.

(g) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

(h) Where the called-in decision is determined by Full Council to be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, Council shall either:

(i) 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

(ii) where the Full 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 the decision, it may require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and / or the Chief Finance Officer.

7.6.24 What is expected of a decision maker reconsidering a decision referred back to them?

(a) If a decision-maker does not accept the concerns of the body that referred the decision back to it, it must provide full written reasons for the rejection of the concerns to the next available meeting of the body that referred the decision back to it.

(b) Whatever is determined by the decision-maker on reconsideration, the subsequent decision will not be open to further call-in.

(c) If the decision-maker decides to withdraw the decision and place it back on the Forward Work Programme for consideration at a later date, the decision may then be subject to call-in when it is made.

Councillor Call For Action Procedure and Guidance

Councillor Calls for Action ('CCfA') are one of a number of measures aimed at empowering local people and communities, improving local democracy and accountability and strengthening the role of Councillors as community leaders and advocates.

7.6.25 What is a Councillor Call for Action ('CCfA')?

(a) A CCfA gives powers[38] to Councillors to help them tackle local problems on behalf of their constituents by calling for consideration of any issue of concern affecting their Ward by a Scrutiny Committee.

(b) The CCfA gives Councillors a central role in holding Council services and other agencies to account at a local level. It allows Councillors to escalate issues where they cannot be resolved through discussions with service providers and / or agencies, or otherwise at a local level. The CCfA process involves asking the Overview and Scrutiny to consider an issue in order to assist a Councillor in finding a resolution.

(c) A CCfA may relate to any local government matter relating to any Council function affecting a Councillor's Ward and / or constituents. This includes matters relating to crime and disorder.

(d) A CCfA should only be requested as a last resort. It should not be used to address vexatious, persistent, unreasonable or discriminatory matters, or to achieve actions for political reasons[39].

7.6.26 How is a CCfA different from a normal Overview and Scrutiny request?

(a) CCfA requests are different from the Council's normal Overview and Scrutiny function in that:

(i) they are initiated by a Councillor in relation to issues of local concern in their Ward;

(ii) they focus on neighbourhood and locality issues, specifically the quality of service provision at a local level;

(iii) they should relate to a genuine local community concern (as judged by the Councillor); and

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38 Section 119 of the Local Government and Public Involvement in Health Act 2007

39 Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012

(iv) they should only be referred to the Overview and Scrutiny Board as a last resort when the Councillor has been unable to resolve the issue by other means.

(b) Further information as to whether an issue is appropriate for a CCfA is set out in the Annex at paragraph 7.7.6.

7.6.27 What is the process for submitting a CCfA

(a) Democratic Services can advise on the CCfA process. It is preferable for Councillors to seek out this advice before starting the process.

(b) The CCfA process is set out at Figure 2.

(c) The CCfA Request Form can be provided by Democratic Services or accessed via the Council's website.

7.6.28 What is the role of Overview and Scrutiny in relation to a CCfA?

(a) Legislation requires that matters requested under the CCfA process, and in respect of which all required steps have been taken, are added to the Overview and Scrutiny Board agenda and discussed. Once a CCfA Request Form is submitted, and Democratic Services are satisfied that they can complete the checklist appended to the CCfA Request Form, the CCfA will be placed on the agenda of the next available Overview and Scrutiny Board meeting.

(b) There is no requirement for issues raised under a CCfA to be scrutinised or for any action to be taken in relation to them[40].

(c) While Councillors may request that matters are considered by Overview and Scrutiny under a CCfA, Overview and Scrutiny will ultimately decide if an issue will be addressed.

(d) If a Scrutiny Panel decides not to exercise its powers in relation to a CCfA, it must notify the Councillor who proposed the CCfA of its decision and provide reasons for it. There is no right of appeal in respect of a Scrutiny Panel's decision not to exercise its powers, and constituents may not appeal to the Executive.

(e) The Scrutiny Panel considering a CCfA will provide the requesting Councillor with a copy of any report and / or recommendations made to the Council or the Executive.

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40 Local Government and Public Involvement in Health Act 2007

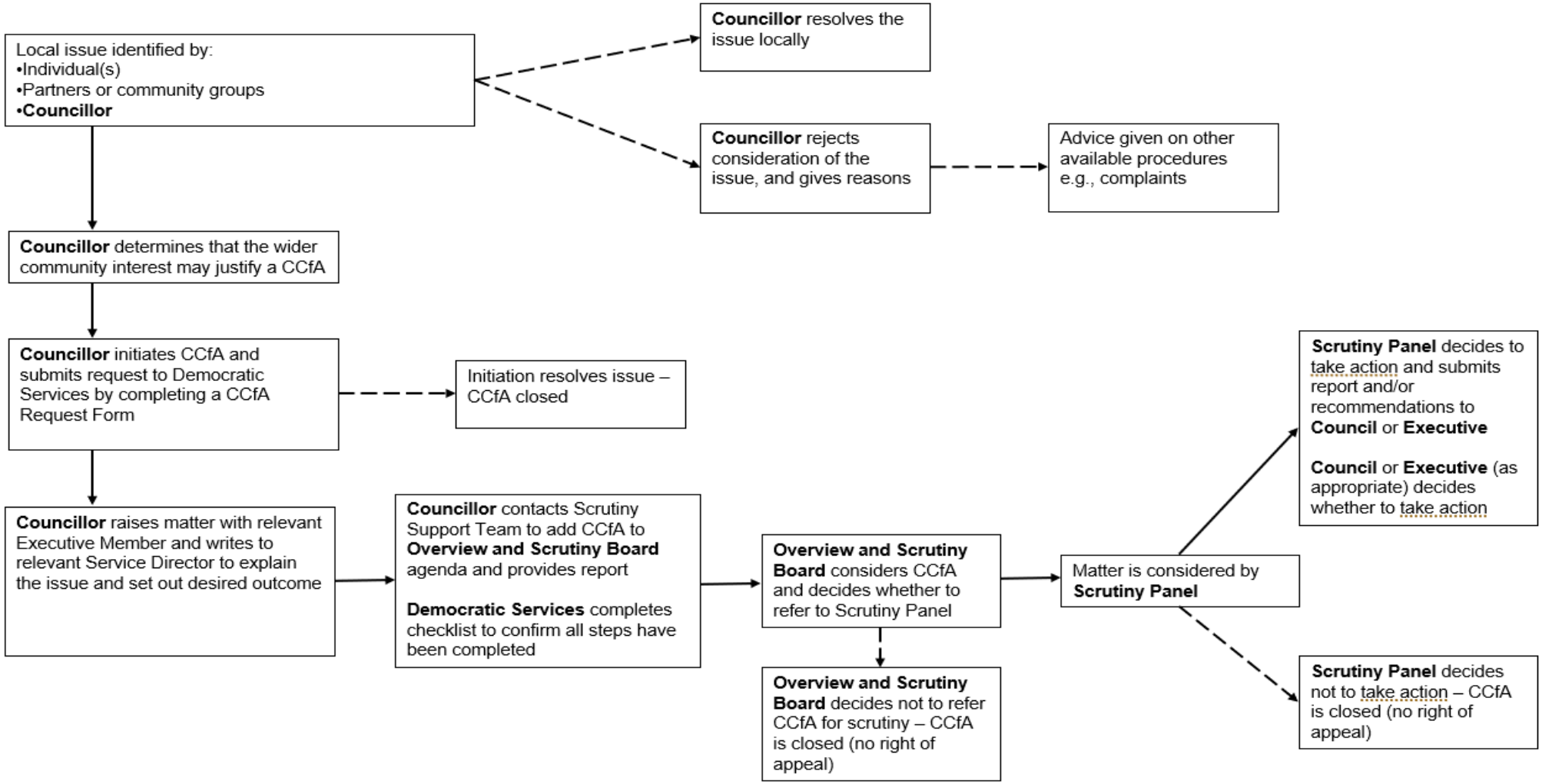

Figure 2: Councillor Call for Action (CCfA)

7.6.29 What actions may the Overview and Scrutiny Board take in respect of a CCfA?

(a) The Overview and Scrutiny Board may accept a CCfA as valid, in which case it may:

(i) decide to take no action (giving reasons for doing so);

(ii) refer the CCfA to the Ad Hoc Scrutiny Panel for consideration;

(iii) in the case of an issue relating to crime and disorder[41], refer the CCfA to the Scrutiny Panel that deals with such matters; or

(iv) in exceptional circumstances, refer the issue to another Scrutiny Panel (for example, where a Scrutiny Panel is already considering a similar issue).

(b) The Overview and Scrutiny Board will reject a CCfA if:

(i) the issue is currently being considered under the Council's complaints procedure;

(ii) Ward Councillor(s) have not explored the issue fully and exhausted all avenues for resolution;

(iii) the Overview and Scrutiny process will not add any value to the work undertaken by Ward Councillor(s);

(iv) the matter has already been subject to Call-in; or

(v) the matter has been considered by the Overview and Scrutiny Board (or a Scrutiny Panel), or the Executive within the previous six months and there has been no change in circumstances that warrants fresh consideration.

(c) If a CCfA is referred for scrutiny, the relevant Scrutiny Panel will, on the advice of the Overview and Scrutiny Board, determine the duration of any scrutiny investigation into a CCfA.

(d) The Overview and Scrutiny Board and / or a Scrutiny Panel's only power in relation to a CCfA is to refer the matter, if appropriate, to the Council or the Executive, to consider its recommendations.

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[41] An issue will fall into this category where it relates to:

(i) crime and disorder (including anti-social behaviour or other behaviour adversely affecting the local environment;) or

(ii) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the Councillor, or the people who live and work in that area.

(e) If the Council or the Executive, as appropriate, decides not to take any action, the CCfA will be closed. The Overview and Scrutiny Board cannot take any further action.

7.7 ANNEX

(a) **Exhaustion of other avenues:** Have all other possible avenues for resolving the issue been exhausted?

Councillors should look to resolve issues by other means where possible and remember that the CCfA process is only to be used as a last resort. Councillors should consider appropriate means of resolution including:

(i) submitting a formal enquiry;

(ii) advising residents to use the Council's complaints procedure (and assisting them to do so, where required);

(iii) advising on the petition process; and

(iv) Call-in of Executive decisions (where appropriate).

(b) **Initial issues:** Are the concerns to do with the quality of public service provision at a local level?

CCfAs are intended to address issues of broad concern in the community relating to Council services. They can also address broader issues relating to other public services. These might include matters such as:

(i) anti-social behaviour;

(ii) community safety;

(iii) health services;

(iv) issues relating to local schools.

(c) **Are the concerns individual complaints?**

CCfAs are not appropriate for dealing with individual complaints. If the matter relates to a complaint, advice can be given about how this may be best brought to the Council's attention and dealt with.

(d) **Do the concerns relate to individual 'quasi-judicial' decisions (e.g. Planning or Licensing) or to Council Tax or Non-Domestic Rates?**

CCfAs are not appropriate for dealing with these matters as they are subject to other appeals processes. However, patterns of issues may be appropriate to consider as a concern under a CCfA; for example, community concerns about the proliferation of licensed premises in a local neighbourhood.

(e) **Local Community Concern: Is the focus of concern on a neighbourhood or locality issue?**

CCfAs focus on neighbourhood or locality issues. They provide a mechanism for Ward Councillors to help resolve issues of concern in their Wards. If the concern is of a more general nature, for example, about policy or town-wide issues, a request for Overview and Scrutiny can still be made in the usual way.

(f) **Is the issue a genuine local concern?**

Councillors should ensure that concerns raised in their Ward are genuine and widely held, and not just an individual constituent's point of view or 'hobby horse'. Establishing the views of other members of the community will be essential in clarifying this.

(g) **Championing a Request:** Is a CCfA the most appropriate way of resolving the issue?

The core purpose of a CCfA is to assist in the resolution of local problems and concerns. Before Councillors agree to champion a CCfA, they should consider other appropriate courses of action such as complaints procedures, Members' enquiries or petitions.

(h) **Would an apology, explanation or an assurance about a particular problem be enough to satisfy a community concern?**

Where a Councillor raises an issue, an apology, an explanation, or an assurance that an action will not be repeated might be given. If that addresses the concerns identified, and further actions such as changes to service provision are not required, then referral to Overview and Scrutiny would not be appropriate.

(i) **What happens if the above are not appropriate or have not succeeded?**

If other actions such as complaints, member enquiries or petitions are not appropriate, have been tried without success, then Councillors might wish to consider a CCfA. Pursuing a CCfA requires Councillors to:

(i) raise the issue with any local interest groups;

(ii) facilitate an informal discussion meeting to consider residents' views – ensuring that ALL points of view are recorded and reported;

(iii) raise the issue at Community Council, cluster group etc.;

(iv) discuss the issue with the appropriate Executive Member; and

(v) contact the Head of Service for the appropriate Service area.

(j) **Before starting down the CCfA route, Councillors should first register with the Scrutiny Support Team their intent to action a CCfA.**

(k) **The Reality: Is the use of the CCfA process being applied selectively?**

(vi) Councillors should only agree to take on issues that have wide support. It should be borne in mind that for every group of residents

that supports a particular scheme, there will probably be another group that opposes it. Councillors should avoid setting themselves impossible objectives.

(vii) CCfAs are not a pathway to additional funding. If the Council has already decided not to take a particular course of action it might well be that the funding is not available. Councillors should seek relevant information BEFORE committing themselves to a particular course of action.

8 Standards

This section explains the Standards regime all Councillors, the Mayor and Co-opted Members (collectively referred to as Members for the purpose of this section of the Constitution) are required to comply with and how they are held to account in respect of their conduct and behaviour.

8.1 What is the Standards regime?

The Council has adopted a Members' Code of Conduct to which all Members are required to adhere – see paragraph 8.9. The development of, and compliance with, the Standards regime is monitored by the Standards Committee.

8.2 Who sits on the Standards Committee?

8.2.1 The Standards Committee comprises nine councillors and is politically balanced. The Mayor may not be a member of the Standards Committee.

8.2.2 Where the Standards Committee is considering a complaint against a member of a Parish Council, and / or an agenda item concerning or affecting a Parish Council, one member from each Parish Council in the Borough will be entitled to sit on the Standards Committee as Co-opted Members.

8.2.3 The chair of the Standards Committee is appointed at the Annual Meeting of Full Council and may not be an Executive Member. If the position of chair of the Standards Committee is vacant, a new chair will be elected at the next Council meeting. The Vice Chair will be elected by the committee.

8.2.4 The Council is also required to appoint an Independent Person[42] who must be consulted by the Standards Committee in relation to complaints that the Member Code of Conduct has been breached (see further paragraph 8.8). The Independent Person is not part of the Standards Committee and has no voting rights when attending a Standards Committee hearing.

8.3 What is the role and function of the Standards Committee?

8.3.1 The Standards Committee oversees key issues that relate to ethics in Local Government.

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[42] Section 28(7) Localism Act 2011

8.3.2 The functions of the Standards Committee are set out in Section 10 – Responsibility for Functions.

8.4 What is the role of the Standards Committee in relation to Parish Councils?

8.4.1 The Council is the principal council for the Borough[43]. Its arrangements for the investigation and hearing of a complaint that a Member has breached the Code of Conduct also apply when a member of a Parish Council in the Borough is alleged to have breached the Parish Council's Code of Conduct.

8.4.2 The Code of Conduct for councillors adopted by each Parish Council in the Borough may be the same as the Council's. Any Code of Conduct adopted must be compliant with the statutory provisions.

8.5 When does the Standards Committee meet?

8.5.1 The Standards Committee meets every three months to consider issues of ethics and to monitor the handling of complaints against Members.

8.5.2 Additional meetings of the Standards Committee will be convened to conduct standards hearings.

8.5.3 All meetings of the Standards Committee (including Hearings) are subject to the Access to Information Procedure Rules set out at Section 14.

8.5.4 Standards Hearings will be held no earlier than 14 clear days and no later than 28 clear days after the Monitoring Officer has provided the Investigating Officer's final report to the Complainant and the subject Member.

8.6 What are the rules of procedure for the Standards Committee?

8.6.1 The Standards Committee is subject to the Council Procedure Rules set out at paragraph 4.8, as they relate to Committees.

8.6.2 Complaints that a Member has breached the Code of Conduct will be addressed as set out in the Arrangements for Member Code of Conduct Complaints, as required by the Localism Act 2011[44].

8.7 What are the possible sanctions the Standards Committee can determine following a Standards Hearing?

8.7.1 Where the Standards Committee determines that a Member has failed to comply with the relevant Members' Code of Conduct, any one or more of the

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43 Section 27(6) of the Localism Act 2011

44 Section 28(6) of the Localism Act 2011.

sanctions below, or any further sanctions deemed appropriate by the Standards Committee, may be applied / recommended, within the powers of the Committee (this list is not exhaustive):

(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 Executive 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 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 prepare and implement a communication 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, except for 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.

8.7.2 The Standards Committee has no power to suspend or disqualify the subject Member or to withdraw basic allowances. The Subject Member will

however lose the entitlement to a Special Responsibility Allowance if removed from a role that attracts such a payment.

8.8 What is the role of the independent person?

8.8.1 The Council must appoint at least one independent person whose views must be sought, and taken into account, by the Council before it makes a decision on an allegation that it has investigated.

8.8.2 Members who have had an allegation made against them may, if they wish, also seek the views of the independent person.

8.9 The Member Code of Conduct

Introduction

1.1.1 The role of elected member across all tiers of local government is a vital part of democracy. It is important that Members can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of individual Members affects the reputation of all Members. The role of councillor should be one that people from a range of backgrounds and circumstances aspire to.

1.1.2 Members represent local residents, work to develop better services and deliver local change. The public have high expectations of Members, entrusting them to represent their local area, taking decisions fairly, openly, and transparently. Members have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

1.1.3 Importantly, Members should be able to undertake their role without being intimidated, abused, bullied, or threatened by anyone, including the general public.

1.1.4 The Code of Conduct has been designed to protect the democratic role, encourage good conduct and safeguard the public's trust in local government. All councils are required to have a local Member Code of Conduct.

1.1.5 The purpose of the Code of Conduct is to assist Members to model the behaviour expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against them. It is also to protect Members, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Members and specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Members and local government.

General principles of Member conduct

1.1.6 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles (see paragraph 1.7.2.).

1.1.7 Building on these principles, the following general principles have been developed[45] specifically for the role of a Member:

In accordance with the public trust placed in me, on all occasions:

(a) **I act with integrity and honesty;**

(b) **I act lawfully;**

(c) **I treat all persons fairly and with respect; and**

(d) **I lead by example and act in a way that secures public confidence in the role of councillor.**

In undertaking my role:

(e) **I impartially exercise my responsibilities in the interests of the local community;**

(f) **I do not improperly seek to confer an advantage, or disadvantage, on any person;**

(g) **I avoid conflicts of interest;**

(h) **I exercise reasonable care and diligence; and**

(i) **I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.**

Application of the Code of Conduct

1.1.8 The Code of Conduct applies to Members as soon as they sign the declaration of acceptance of the office of councillor or Mayor, or attend their first meeting as a Co-opted Member. It continues to apply until the Member's term of office, or Co-opted Member role, ends.

1.1.9 The Code of Conduct applies when Members act in their capacity as a Member. This may include when Members:

(a) misuse their position as a Member; or

(b) their actions would give the impression to a reasonable member of the public, with knowledge of all the facts, that they are acting as a Member or Co-opted Member.

1.1.10 The Code applies to all forms of communication and interaction, including:

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[45] A model Code of Conduct was published by the Local Government Association (LGA) in May 2021. The Council adopted this model Code without alteration, which explains the use of the first person and narrative guidance. The obligations on Members are distinguished by being indented and in bold. Any type not indented and in bold is guidance on the application of the obligations.

(a) at face-to-face meetings;

(b) at online or telephone meetings;

(c) in written communication;

(d) in verbal communication;

(e) in non-verbal communication; and

(f) in electronic and social media communication, posts, statements and comments.

1.1.11 Members are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

1.1.12 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and Members of the Council are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

1.1.13 Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Member conduct

1.1.14 This section sets out the obligations and minimum standards of conduct required of Members. Conduct falling short of these standards may result in a complaint of a breach of the Code of Conduct. Complaints found proved may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

Respect

1.1.15 As a Member:

(a) **I treat other Members and members of the public with respect.**

(b) **I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

1.1.16 Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. Members can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Members should not, however, subject individuals, groups of people or organisations to personal attack. The public should be treated politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

1.1.17 In return, Members have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening Members are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Protocol for Member / Officer Relations at paragraph 9.11.24.

Bullying, harassment and discrimination

1.1.18 As a Member:

(a) **I do not bully any person.**

(b) **I do not harass any person.**

(c) **I promote equalities and do not discriminate unlawfully against any person.**

(d) **I do not intimidate or attempt to intimidate any person who is involved in any complaint about any alleged breach of this Code.**

1.1.19 The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

1.1.20 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

1.1.21 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

1.1.22 The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council’s performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

Impartiality of officers of the council

1.1.23 As a Member:

I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

1.1.24 Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, Members must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and access to information

1.1.25 As a Member:

(a) **I do not disclose information:**

(i) **given to me in confidence by anyone;**

(ii) **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**

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

(b) **I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

(c) **I do not prevent anyone from getting information that they are entitled to by law.**

1.1.26 Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. Members should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Disrepute

1.1.27 As a Member:

I do not bring my role or local authority into disrepute.

1.1.28 Members are trusted to make decisions on behalf of their community. Members actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Members should be aware that their actions might have an adverse impact on them, other Members and / or the Council and may lower the public's confidence in them or the Council's ability to discharge functions. For example, behaviour that is considered dishonest and / or deceitful can bring the Council into disrepute.

1.1.29 Members are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

Use of position

1.1.30 As a Member:

I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

1.1.31 A Member of the Council has certain opportunities, responsibilities, and privileges, and Members make choices all the time that will impact others. However, Members should not take advantage of these opportunities to further their own or others' private interests or to disadvantage anyone unfairly.

Use of local authority resources and facilities

1.1.32 As a Member:

(a) **I do not misuse council resources.**

(b) **I will, when using the resources of the local authority or authorising their use by others:**

(i) **act in accordance with the local authority's requirements; and**

(ii) **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

1.1.33 Members may be provided with resources and facilities by the Council to assist in carrying out their duties as a councillor. Examples include:

(a) office support;

(b) stationery;

(c) equipment such as phones, and computers;

(d) transport; and

(e) access and use of local authority buildings and rooms.

1.1.34 These are provided to help Members carry out their role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's policies regarding their use.

Complying with the Code of Conduct

1.1.35 As a Member:

(a) **I undertake Code of Conduct training provided by my local authority.**

(b) **I cooperate with any Code of Conduct investigation and / or determination.**

(c) **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

(d) **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

1.1.36 It is extremely important for Members to demonstrate high standards, have their actions scrutinised and not undermine public trust in the Council or its governance. Members who do not understand or are concerned about the Council's processes in handling a complaint should raise this with the Monitoring Officer.

Interests

1.1.37 As a Member:

I register and disclose my interests.

1.1.38 Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

1.1.39 Members need to register their interests so that the public, Council employees and fellow Members know which interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects Members by allowing them to demonstrate openness and a willingness to be held accountable. Members are personally responsible for deciding whether or not to disclose an interest in a meeting, but it can be helpful for them to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

1.1.40 Failure to register or disclose a disclosable pecuniary interest as set out in Table 3 is a criminal offence under the Localism Act 2011.

1.1.41 Appendix A sets out the detailed provisions on registering and disclosing interests. If in doubt, Members should always seek advice from the Monitoring Officer.

Gifts and hospitality

1.1.42 As a Member:

(a) **I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

(b) **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**

(c) **I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

1.1.43 In order to protect their position and the reputation of the Council, Members should exercise caution in accepting any gifts or hospitality which are (or are reasonably believed to be) offered to them because they are a Member. The

presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case it could be accepted and publicly registered. However, Members do not need to register gifts and hospitality which are not related to their role as a Member, such as Christmas gifts from friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with the duties of a Member. The Monitoring Officer's guidance should be sought in the event of any uncertainty.

Appendix A – Registering Interests

1.1.44 Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in Table 3 (Disclosable Pecuniary Interests) which are as described in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012[46].

1.1.45 You should also register details of your other personal interests which fall within the categories set out in Table 4 (Other Registerable Interests).

"Disclosable Pecuniary Interest"	means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 3 below.
"Partner"	means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1.1.46 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

1.1.47 A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

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46 Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

1.1.48 Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

1.1.49 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 3, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

1.1.50 Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

1.1.51 Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 4), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

1.1.52 Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 3) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

(a) **Where a matter arises at a meeting which affects –**

(i) your own financial interest or well-being;

(ii) a financial interest or well-being of a relative or close associate; or

(iii) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in Table 4,

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

(b) **Where a matter (referred to in paragraph 10 above) affects the financial interest or well-being:**

(i) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and

(ii) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest,

you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

(c) **If it is a 'sensitive interest', you do not have to disclose the nature of the interest.**

(d) **Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.**

1.1.53 This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Table 3: Disclosable Pecuniary Interests

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by

	him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income
Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge): (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where: (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either:

	(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his / her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class

* ‘director’ includes a member of the committee of management of an industrial and provident society.

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

Table 4: Other Registerable Interests

You must register as an Other Registerable Interest:

(a) **any unpaid directorships**

(b) **any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority**

(c) **any body:**

- **i. exercising functions of a public nature**
- **ii. directed to charitable purposes or**
- **iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)**

of which you are a member or in a position of general control or management.

9 Officers

This section sets out the role of Officers, and their management and employment arrangements. It also explains the roles of statutory officers and proper officers.

9.1 Who are the Council's Officers?

9.1.1 The Council may engage such staff (referred to as Officers) as it considers necessary to carry out the functions of the Council. The current senior officer structure can be accessed on the Council's website. It is determined by the Head of Paid Service.

9.1.2 Officers give professional advice to Members, implement decisions and manage the day-to-day delivery of the Council's services.

9.1.3 The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out at paragraph 9.10.

9.2 How should Officers behave?

9.2.1 All Officers must ensure that they act within the law and in accordance with this constitution when carrying out the Council's work.

9.2.2 Officers will comply with:

(a) the Officers' Code of Conduct (paragraph 9.11); and

(b) the Protocol on Member / Officer Relations (paragraph 9.11.24); and

(c) any policies or procedures adopted by the Council.

9.3 Who are the Statutory Chief Officers?

9.3.1 The Council is required by law to appoint senior officers to certain posts. These Statutory Chief Officers discharge statutory duties as part of their employment. The officer must exercise the duties personally or, where lawful, through deputy statutory officers they appoint.

9.3.2 The Council will engage persons for the following posts, who will be designated Statutory Chief Officers and will have the functions and responsibilities set out in the Officer Delegation Scheme at Section 10 (Part D).

Table 5: Statutory Chief Officers

Statutory post	Designated Officer	Deputy
Head of Paid Service[47]	Chief Executive	none
Monitoring Officer[48]	Corporate Director of Legal and Corporate Services	Head of Legal Services
Chief Finance Officer[49]	Corporate Director of Finance	Head of Finance and Investment
Director of Children's Services[50]	Corporate Director of Children's Services	
Director of Adult Social Services[51]	Corporate Director of Adult Social Care and Health	
Director of Public Health[52]	Joint Director of Public Health	

9.3.3 The Monitoring Officer may not be the Head of Paid Service or the Chief Finance Officer.

9.3.4 The Chief Finance Officer must be a suitably qualified accountant and may not be the Monitoring Officer.

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

9.3.6 The Director of Public Health must be a registered Public Health professional and is appointed jointly with the Secretary of State for Health and Social Care.

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47 Section 4 of the Local Government and Housing Act 1989

48 Section 5 of the Local Government and Housing Act 1989

49 Section 151 of the Local Government Act 1972

50 Section 18 of the Children Act 2004

51 Section 6 of the Local Authority Social Services Act 1970

52 Section 73A of the National Health Services Act 2006

9.3.7 The duties of the Statutory Chief Officers in relation to all of the Council's services and areas of responsibility are summarised as follows, and the matters delegated to each are particularised in detail in the Officer Delegation Scheme at Part D of Section 10:

(a) **Head of Paid Service**

(i) Overall corporate management and operational responsibility (including overall management responsibility for all staff);

(ii) Provision of professional advice to all parties in the decision-making process (the Executive, scrutiny, full Council and other committees);

(iii) Together with the Monitoring Officer, responsibility for a system for record keeping for all the local authority's decisions (executive or otherwise);

(iv) Representing the Council on partnership and external bodies (as required by statute or the Council);

(v) Where they consider it appropriate to do so, to prepare a report to the Council setting out their proposals on the following matters:

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.

(b) **Monitoring Officer**

(i) Reviewing and maintaining the Constitution as set out at Section 2;

(ii) Ensuring lawfulness and fairness of decision-making (see Section 13) and reporting to Full Council if they consider that a proposal, decision or omission of the Council or the Executive would give rise to unlawfulness or maladministration, having consulted with the Head of Paid Service and the Chief Finance Officer in accordance with the Protocol for Statutory Chief Offices responsible for Governance set out at paragraph 9.11;

(iii) Supporting the Standards Committee, contributing to the promotion and maintenance of high standards of conduct;

(iv) Conducting or securing investigations into complaints made under the Members' Code of Conduct, making reports and / or recommendations in respect of them to the Standards Committee;

(v) Proper Officer for access to information, ensuring 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;

(vi) Advising whether Executive decisions are within the Budget and Policy Framework in conjunction with the Chief Finance Officer;

(vii) Advising Members on the scope of their powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues;

(viii) Responsible for corporate complaints, Ombudsman cases and whistleblowing. The Monitoring Officer may delegate these responsibilities to other Officers.

(c) **Chief Finance Officer (Section 151 Officer)**

(i) Ensuring lawfulness and financial prudence of decision making, reporting to Full Council or the Executive (as appropriate, depending on the nature of the function to which it relates) if they consider that a 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. They will consult with the Head of Paid Service and the Monitoring Officer before making such a report in accordance with the Protocol for Statutory Chief Officers with responsibility for Governance set out at paragraph 9.10.11;

(ii) Administering the Council's financial affairs;

(iii) Contributing to the corporate management of the Council, in particular through the provision of professional financial advice;

(iv) Advising Members on the scope of their powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework and generally advising Members and Officers in their respective roles;

(v) Providing appropriate financial information to the media, members of the public and the community.

(d) **Director of Children's Services**

(i) Statutory functions in respect of Children's Services;

(ii) Education of children and young people;

(iii) Children's Early Help;

(iv) Social and Welfare Services for children and vulnerable young people.

(e) **Director of Adult Social Services**

(i) Statutory functions in respect of Adult Social Services;

(ii) Integrated Health and Social Care;

(iii) Advising Members and Officers on all Adult Social Care issues.

(f) **Director of Public Health**

(i) Statutory functions in respect of Public Health;

(ii) Writing the annual report on the health of the local population;

(iii) Advising Members and Officers on all public health matters;

(iv) Taking steps to improve public health;

(v) Planning for and responding to emergencies which present a risk to public health;

(vi) Carrying out such public health functions or health protection functions as the Secretary of State may delegate or specify in regulations;

9.4 Who are the Governance Statutory Chief Officers?

9.4.1 The three officers of the Council with statutory responsibility for the governance of the Council have additional statutory protection in respect of disciplinary action and dismissal as set out in the Officer Employment Procedure Rules at paragraph 9.10:

(a) Head of Paid Service;

(b) Chief Finance Officer;

(c) Monitoring Officer.

9.4.2 The Council is required to provide the Governance Statutory Chief Officers with the resources and Officers they deem sufficient to support them in performing their duties.

9.4.3 The Protocol for Statutory Chief Officers responsible for Governance at paragraph 9.11 has been adopted to set out how these officers will work with each other, Members and other Officers to discharge their statutory duties in relation to governance.

9.4.4 To avoid confusion, throughout this constitution, the Statutory Chief Officer title will be used rather than the substantive post title for the Governance Statutory Chief Officers – this does not mean that all functions delegated to those officers are statutory chief officer functions. The statutory functions of each statutory officer are summarised at paragraph 9.3.7 while the functions discharged by Chief Officers are summarised at paragraph 9.7 and provided in detail in Part D Section 10 to this Constitution.

9.5 Who are the Chief Officers of the Council?

9.5.1 In addition to the Statutory Chief Officers set out in Table 5, the following posts are non-statutory Chief Officers[53] of the Council:

(a) Corporate Director of Environment, Communities and Culture;

(b) Corporate Director of Regeneration and Housing.

9.5.2 The functions and responsibilities of all Chief Officers are set out in Part D of Section 10.

9.6 What are the general responsibilities of all Chief Officers?

The Council's Chief Officers will:

(a) support and advise the Council, Executive, Scrutiny Committees and other Committees on policy and service delivery in order that Members' decisions are well informed;

(b) ensure that the policies and decisions of the Council and Executive are formulated and delivered effectively and efficiently;

(c) provide strong managerial leadership and direction, foster cross-departmental working and implement organisational improvement;

(d) set high standards and drive up the performance, effectiveness and reputation of the Council;

(e) work with outside bodies and access additional funds and resources in order to support the Council's programmes of work;

(f) recruit, develop, motivate and inspire staff.

9.7 What are the main roles of individual Chief Officers?

The functions and delegations to each Chief Officer are set out in detail in Part D of Section 10, but the specific role of Chief Officers can be summarised as:

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53 Section 2 of the Local Government and Housing Act 1989

(a)	Chief Executive	- Head of Paid Service; - Overall corporate management and operational responsibility; - Provision of professional advice and support to Members of the council; - Representing the council on external and partnership bodies.
(b)	Corporate Director of Finance	- Chief Finance Officer; - Budgeting and Financial Management; - Pensions, Investment and Treasury Management; - Risk & Insurance; - Audit; - Procurement and Transactional Services; - Transformation
(c)	Corporate Director of Legal and Corporate Services	- Monitoring Officer; - Returning Officer and Electoral Registration Officer[54], Elections - Human Resources; - Democratic Services; - Qualified person under the Freedom of Information Act 2000[55] - Registrars and Coroners; - Governance, Policy and Information
(d)	Corporate Director of Adult Social Care and Health	- Statutory functions in respect of Adult Social Services, - Adult Social Work; - Integrated Health and Social Care; - Commissioning; - Public Health - Leisure.
(e)	Corporate Director of Children's Services	- Statutory functions in respect of Children's Services; - Education of children and young people; Children's Early Help; - Social and Welfare Services for Children and vulnerable young people.

[54] Sections 8, 28 and 35 Representation of the People Act 1983

[55] Section 36 of the Freedom of Information Act 2000

(f)	Corporate Director of Environment, Communities and Culture;	- Environment; - Waste; - Highways infrastructure and Transportation; - Regulatory services
(g)	Corporate Director of Regeneration and Housing.	- Growth and Investment; - Planning - Digital; - Property; - Culture; - Housing; - Marketing and Communications
(h)	Director of Public Health	- Statutory functions in respect of Public Health;

9.8 Are there statutory officers who are not Chief Officers?

9.8.1 Some officers are not statutory Chief Officers, but are statutory officers, discharging statutory duties as part of their employment as set out at Table 6.

Table 6: Statutory Officers

Statutory post	Designated Officer
Scrutiny Officer[56]	Head of Legal Services (People)
Data Protection Officer[57]	Data Protection Officer
Local Authority Designated Officer[58]	Local Authority Designated Officer

56 Section 9FB Local Government Act 2000 as amended

57 Article 37-39 General Data Protection Regulation 2018, s.69 Data Protection Act 2018

58 Appointed under statutory guidance "Working Together to Safeguard Children 2006" per section 7 Local Authority Social Services Act 1970

9.8.2 The responsibilities of statutory officers are set out in Part D of Section 10.

9.8.3 The Scrutiny Officer cannot be one of the Governance Statutory Chief Officers.

9.9 What other categories of officer are there?

9.9.1 A Proper Officer is an Officer appointed by the Council to carry out certain administrative functions as required by statute. The list of Proper Officers appointed by the Council is set out at paragraph 10.28.

9.9.2 Once a Proper Officer is appointed by Council, no further consent of Council is required if a Proper Officer chooses to delegate the duties to other Officers.

9.9.3 In the absence of the appointment of a proper officer the Monitoring Officer will be the Council's Proper Officer until an appointment is made by Full Council.

9.9.4 The Monitoring Officer is delegated authority to amend the list of Proper Officers to remove and replace redundant provision or to change appointments.

9.10 Officer Employment Procedure Rules

9.10.1 What are the employment arrangements for Officers?

The recruitment, selection and dismissal of Officers will comply with these Officer Employment Procedure Rules.

9.10.2 Who can be appointed as an Officer?

(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 a Member, an Officer, or of the partner of such persons.

(b) No candidate so related to a Member or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

(c) The Council will disqualify any applicant who directly or indirectly seeks the support of a Member 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.

(d) No Member 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.

9.10.3 How are Chief Officers recruited?

Where the Council proposes to appoint a statutory or non-statutory Chief Officer 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

(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 (a) above to be brought to the attention of potential applicants.

9.10.4 **How are Chief Officers appointed?**

(a) An Appointments Sub-committee of the Chief Officer Committee will be convened to progress the appointment of a Chief Officer.

(b) The Chief Officer Appointments Sub-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).

(c) Interim appointments of Chief Officers for a term of less than six months are to be made by the Head of Paid Service.

(d) An offer of permanent employment can be made in respect of a Chief Officer post save where an Executive Member provides a well-founded objection to the appointment within three days of notification of the Chief Officer Appointments Sub-committee's recommendation.

(e) The Chief Officer Appointments Sub-Committee will recommend the appointment of the Head of Paid Service to Full Council;

(f) Full Council shall appoint the Head of Paid Service provided that no well-founded objection has been received from an Executive Member within three days of notification of the Chief Officer Appointments Sub-committee's recommendation.

9.10.5 **How are other Officers appointed?**

Officers who are not Chief Officers will be appointed by an appropriately authorised Officer in accordance with these Officer Employment Procedure Rules and the Council's Recruitment and Selection Procedure.

9.10.6 **How are Political Assistants appointed?**

(a) Political Assistants may be appointed to assist members of a political group within the Council in discharging their functions.

(b) A Political Assistant may be appointed by any Group which qualifies for one[59] and to which such a post has been allocated by the Council.

(c) 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.

(d) Political Assistants will be appointed by the Head of Paid Service in consultation with the relevant Group Leader or their nominee. The

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[59] Section 9 of the Local Government and Housing Act 1989

Group Leader or their nominee shall be entitled to attend any interview for the relevant Political Assistant.

9.10.7 **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[60].

9.10.8 **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 Chief Officer in line with relevant guidance and / or the Council's Recruitment and Selection Procedure.

Disciplinary Procedures

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

(a) Statutory Officers - Disciplinary action in respect of Statutory Chief Officers shall be conducted in accordance with the relevant statutory procedure[61].

(b) Other Chief Officers - Disciplinary action in respect of Chief Officers who are not Statutory Officers shall be conducted in accordance with Part Three of the Conditions of Service of the Joint Negotiating Committee of Chief Officers of Local Authorities and the Council's disciplinary policy.

(c) Other Officers – Disciplinary action for all other officers shall be conducted in accordance with Part Two of the National Joint Council for Local Government Services' National Agreement on Pay and Conditions of Service and the Council's disciplinary policy.

9.10.10 **When will Members be involved?**

Members will not be involved in any disciplinary action relating to Officers who are not Chief Officers except:

(d) where their involvement is necessary for any investigation or inquiry into alleged misconduct; or

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60 Section 3 of the Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002

61 The Local Authorities (Standing Orders) (England) Regulations 2001, Schedule 3

(b) as a member of the Council's Staff Appeals Committee (the body with delegated powers to hear relevant staff appeals against grievances, dismissal etc.) for the purpose of hearing appeals.

Protocol for Statutory Chief Officers responsible for Governance

9.10.11 The Governance Statutory Chief Officers of the Council are required to work closely together to discharge their various statutory duties as set out in this Constitution and in the Code of Practice on Good Governance for Local Authority Statutory Officers[62].

9.10.12 This protocol provides a framework for the positive discharge of these statutory duties. A summary list of the statutory responsibilities of each appears at paragraph 9.4.

Working Arrangements

9.10.13 Excellent working relationships between Members and Officers will assist in the discharge of the statutory responsibilities of the Chief Officers responsible for governance. They should expect to be informed of relevant information and have access to debate (particularly at the early stages of any decision making by the Council) to fulfil their responsibilities.

9.10.14 Members and Officers should support the Chief Officers responsible for governance to discharge the Council's statutory and discretionary responsibilities by:

(a) alerting the Chief Officers responsible for governance of any issue(s) that may become of concern to the Council, including:

(i) the manner in which the discharge of functions is co-ordinated, the number and grades of Officers required for the discharge of its functions, the organisation of the Council's Officers and the appointment and proper management of the Council's Officers (Head of Paid Service);

(ii) issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise (Monitoring Officer);

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62 Produced jointly by SOLACE, CIPFA and LLG as the professional bodies of the officers comprising the local authority governance Golden Triangle https://solace.org.uk/wp-content/uploads/2024/07/Code-of-Practice-on-Good-Governance-for-Statutory-Officers-June-2024.pdf

(iii) issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss of deficit (Chief Financial Officer);

(b) giving them advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);

(c) respecting their right to attend any meeting of the Council (including the right to be heard) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);

(d) ensuring unqualified access to any information held by the Council relevant to any investigation(s) by the Governance Statutory Chief Officers.

Furthering good governance

9.10.15 The Governance Statutory Chief Officers will further the good governance of the Council by:

(a) having a direct relationship of respect and trust with the Mayor, Deputy Mayor, Chair of the Council and Chairs of the committees of the Council with a view to ensuring the effective and efficient discharge of Council business;

(b) developing and maintaining an effective working liaison and relationship with the External Auditor and the Local Government and Social Care Ombudsman including having the authority, on behalf of the Council to:

(i) complain to the same;

(ii) refer any breaches to the same; or

(iii) give and receive any relevant information

whether confidential or otherwise, through appropriate protocols, if necessary;

(c) ensuring all Chief Officers are kept up to date with relevant information regarding their statutory duties;

(d) meeting regularly to consider and recommend action in connection with Corporate Governance issues and other matter of concern;

(e) reporting to the Council when necessary on the corporate approach of the Council, the Constitution and any necessary or desirable changes following consultation with other Chief Officers;

(f) reporting to the Council, as necessary on the staff, accommodation and resources required to discharge their statutory functions;

(g) in consultation with the Mayor, the Chairman of the Council, the Audit Committee and the External Auditor as appropriate:

(i) deferring the making of a formal report under Section 4 of the Local Government and Housing Act 1989 where another investigative body is involved (Head of Paid Service);

(ii) deferring the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved (Monitoring Officer);

(iii) deferring the making of a formal report under Section 114, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved (Chief Finance Officer);

(h) having sufficient resources to address any matters concerning their statutory functions;

(i) in the case of the Monitoring Officer and Chief Financial Officer, appointing a suitably qualified deputy and keeping the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Monitoring Officer / Chief Financial Officer.

Duty to report

9.10.16 To ensure the effective and efficient discharge of the arrangements set out above, Members and Officers will report any breaches of statutory duty or Council policy and procedures and other legal, constitutional or financial concerns to the Governance Statutory Chief Officers as soon as practicable.

9.10.17 The Statutory Chief Officers responsible for governance are available for Members and Officers to consult on any issues relating to their statutory remit and will record details of any advice given.

9.10.18 The Governance Statutory Chief Officers have the following joint statutory and constitutional responsibilities:

(a) 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;

(b) The Monitoring Officer and the Chief Finance Officer will:

(i) 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;

(ii) 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

(iii) 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.

(c) 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.

Issuing a Statutory Report

9.10.19 This section of the protocol[63] applies when either the Chief Finance Officer or the Monitoring Officer consider they may need to issue a statutory report under the following provisions:

(a) **Section 114 of the Local Government Finance Act 1988** which requires a report to all Members to be made by the Chief Finance Officer if there is, or is likely to be, unlawful expenditure or an unbalanced budget.

(b) **Section 114A of the Local Government Finance Act 1988** which requires a report to Executive Members to be made by the Chief Finance Officer if there is, or is likely to be:

(i) a decision made which involves or would involve the authority incurring expenditure which is unlawful;

(ii) a course of action taken or about to be taken which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority; or

(iii) the entry of an item of account which is unlawful.

(c) **Section 5 of the Local Government and Housing Act 1989** which requires a report to Members in respect of any proposal, decision or omission which has given rise to, or is likely to or would give rise to:

(i) a contravention by:

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63 The duty is personal to the officer appointed to these posts, who may nominate a deputy to exercise the responsibility in their absence.

a. the authority;

b. any committee or sub-committee;

c. any person holding any office or employment under the authority; or

d. any such joint committee

of any enactment or rule of law; or

(ii) any such maladministration[64] or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners);

(d) **Section 5A of the Local Government and Housing Act 1989** which requires a report to Executive Members in respect of any proposal, decision or omission which has given rise to, or is likely to or would give rise to:

a. a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or

b. any such maladministration or [failure]6 as is mentioned in Part III of the Local Government Act 1974 (Local commissioners)

9.10.20 The decision to issue a statutory report is not one that is taken lightly and is likely to have serious implications for the Council and possibly even the officer issuing the report. This protocol therefore identifies the process and controls which will be adopted prior to such a report being made. It should be noted that the Council's constitution and effective management and reporting procedures are designed to minimize the prospect of a statutory report being issued. **Issuing a statutory report should be avoided if at all possible.**

9.10.21 Information leading to the possibility of the preparation of a statutory report may come from a variety of sources such as:

(a) a council officer (including a member of the Financial or Legal Services department);

(b) a Member of the council;

(c) the public;

(d) the authority's auditors.

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64 Maladministration is not defined in section 26(1) of the Local Government Act 1974 but the courts have determined that it can be where a public body has taken, or failed to take, action causing personal injustice. It can include "bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness..." according to (HC Deb, Vol 754, col 51 (1966)).

9.10.22 The statutory officer has a duty to investigate possible issues which might lead to a formal report to satisfy themselves as to the position of the Council. However, the duty to make a report rests with the statutory officer.

Exceptions and other considerations

9.10.23 A report may not be required in the following circumstances:

(a) **Emerging matters or a developing situation** – such as where a view is requested on a proposal which may be under consideration but which if pursued could result in a reportable matter. A simple preliminary request would not give rise to a need to report, although any further developments would need to be monitored;

(b) **Items of trivial expenditure or loss of income.**

(c) **Cases of discovered fraud** (which may in any case lead to criminal prosecution), which will usually be dealt with under the Council's existing Anti-Fraud and Corruption Strategy, as referenced elsewhere within the Financial Procedure Rules (Section 12);

(d) **A service overspend** except where the Council's total resources are likely to fall short of expenditure and the Chief Finance Officer judges that there is no reasonable prospect of the position being resolved or mitigated.

9.10.24 In the case of a developing situation, careful consideration must be given to the timing of any report, in particular to distinguish between an emerging situation and an actual one. Every reasonable action should be taken to avoid the need for a statutory report to ultimately be required.

9.10.25 A report made under section 114 (2) requires the Chief Finance Officer Director of Strategic Finance to make a judgement that a decision or course of action is unlawful**. Such a decision will only be made after consultation with the Monitoring Officer**. However, a report made under section 114 (3) relates to a financial judgement which may be reached by the Chief Finance Officer alone, although consultation with the Head of Paid Service and Monitoring Officer is still required in case other corporate and legal issues arise as a result of the report.

Statutory Report Process

9.10.26 In the event that the statutory officer considers that a report must be issued, the process to be followed is as set out in Figure 3 below.

9.10.27 Once the report is issued and considered by Members, the duties of the statutory officer are discharged. If Members (in Full Council or Cabinet, as appropriate) do not agree with a report issued under section 114, further formal action may be taken by the External Auditor through the issue of an advisory notice under section 29 (Schedule 8) of the Local Audit and

Accountability Act 2014 or by applying to the court for a declaration under section 31 of that Act.

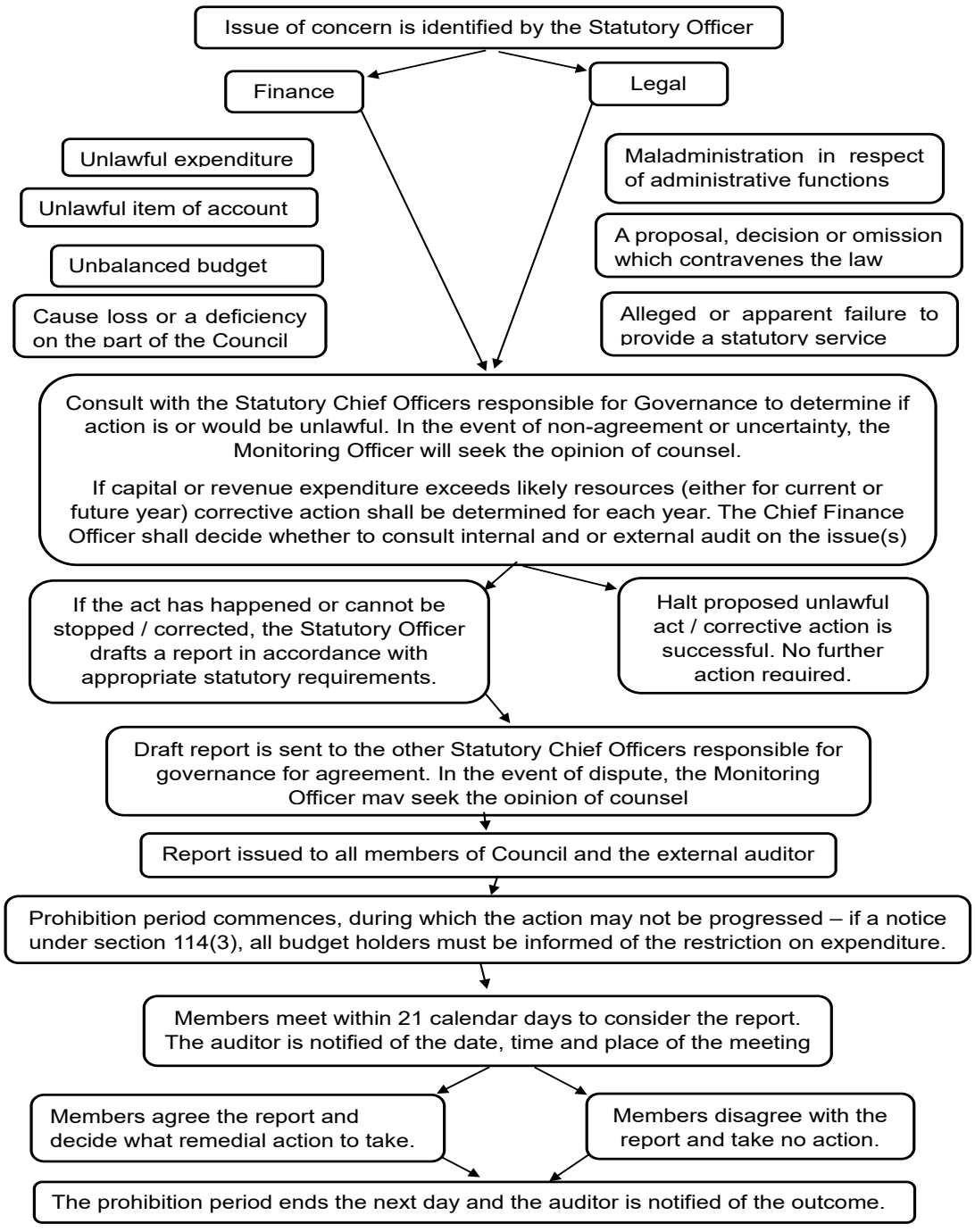

Figure 3: Statutory Report Process

9.11 Officer Code of Conduct

This Code of Conduct applies to Council employees and any other person working on behalf of the Council (for example, agency staff) 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.

9.11.1 What standards apply to Council employees?

(a) 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.

(b) 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.

(c) 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.

(d) This policy has been reviewed against the Bribery Act 2010[65].

9.11.2 What are the general standards of conduct for employees?

(a) 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.

(b) The Council does, however, require that efficiency and due performance of official duties shall not be impaired by private work in

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[65] Bribery Act 2010

leisure time, and it requires at all times to be satisfied that its interests are not being detrimentally affected in this respect.

(c) 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 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.

9.11.3 **What are the Nolan Principles and how do they apply to employees?**

(a) The Seven Principles of Public Life (also known as the Nolan Principles[66]) apply to anyone who works as a public office-holder, including those who are appointed to work in local government. They are set out at paragraph 1.7.2.

(b) Council employees should take the Nolan Principles into account when performing all of their duties for the Council.

9.11.4 **What are the rules for employees in relation to disclosure of Information?**

(a) 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.

(b) 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

9.11.5 **In what circumstances may employees undertake private paid work?**

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66 The Nolan Principles

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 spinal column point 30 shall devote their whole-time service to the work of the Council, 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 relevant Chief Officer; 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 relevant Chief Officer.

9.11.6 **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 9.11.15 above, the employee must inform the relevant Chief Officer who may relax some of the conditions in section 9.11.5 above, as may be considered appropriate.

9.11.7 **When must an employee declare an interest in a contract**[67]?

(a) The Procurement and Contract Procedure Rules set out when employees must make a declaration of an interest in a contract.

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

(i) 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

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[67] Section 117 of the Local Government Act 1972

(ii) 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.

(c) 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.

9.11.8 **In what circumstances may employees write and publish books and articles?**

(a) 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.

(b) 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.

(c) No such persons shall, without permission from the relevant Chief Officer 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.

(d) Sections (a) and (b) above 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.

9.11.9 **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 Chief Officer.

Relationships And Neutrality

9.11.10 **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.

9.11.11 **What are the rules for employees in relation to appointments and other employment matters?**

(a) 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.

(b) 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.

(c) 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 9.11 shall be subject to the Council's disciplinary policy and may lead to the employee's dismissal.

9.11.12 **What is the policy for employees in relation to prevention of corruption?**

(a) The Council's Protocol for Members and Officers on Gifts and Hospitality (see paragraph 5.12) provides guidance to employees on receiving gifts, invitations and hospitality as well as the provision of gifts and hospitality to those outside the Council.

(b) The Protocol for Members and Officers on Gifts and Hospitality applies to all Council employees and failure to adhere to it may be dealt with under the Council's disciplinary procedure.

9.11.13 **What are the rules for employees in relation to sponsorship?**

(a) 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.

(b) 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.

9.11.14 **Should employees be politically neutral?**

(a) 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.

(b) 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.

(c) 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.

(d) Political Assistants appointed on fixed term contracts[68] are exempt from the standards set in this paragraph.

(e) Employees must at all times have regard to, and act in accordance with, the provisions of the Protocol on Member / Officer Relations at paragraph 9.11.24 and the Protocol for Statutory Chief Officers responsible for Governance at paragraph 9.10.11.

9.11.15 **How should employees separate their client and contractor roles in the tendering process?**

(a) 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.

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[68] Section 9 of the Local Government and Housing Act 1989

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

(c) 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.

(d) 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.

(e) 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

9.11.16 **What are the rules for employees' use of technology platforms, websites and online tools?**

(a) 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.

(b) 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.

9.11.17 **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.

9.11.18 **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 their office or employment, accept any fee or reward whatsoever other than their proper remuneration, which would include handing in any lost property[69].

9.11.19 **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.

9.11.20 **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.

9.11.21 **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.

9.11.22 **What is the role of Officers?**

(a) Officers are employed by and serve the whole Council. They advise the Council, the Executive, Council Committees and other Council bodies. They are responsible for ensuring that decisions are taken within the law and in accordance with the Constitution, and that decisions are properly recorded and effectively implemented.

(b) The Head of Paid Service is responsible for ensuring that Officers fully and effectively support Members. Officers are responsible to the Head of Paid Service and not to individual Members of the Council; no matter what office they hold.

(c) All Officers are required by law to be politically neutral, and for Senior Officers this is enforced by law[70].

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69 Section 117 of the Local Government Act 1972

70 Local Government and Housing Act 1989

(d) There are statutory requirements in relation to the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. These responsibilities are detailed in Part D of Section 10.

(e) The Monitoring Officer will provide legal advice to the Council and to the Executive.

(f) The Deputy Chief Officer with responsibility for 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, see paragraph 6.17.

(g) The Deputy Chief Officer with responsibility for 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.

9.11.23 **How should Officers conduct themselves?**

(a) 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.

(b) It is not enough for Officers to avoid actual impropriety. They must at all times avoid any occasion for suspicion, and any appearance, of improper conduct. Officers must declare to the Head of Paid Service or the Monitoring Officer any relationship with a Member. This includes any relationship, which might be seen as influencing their work as an Officer or influencing the work of the Member. 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. Examples include a family or sexual relationship and regular social mixing, such as holidays or evenings out together.

(c) 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.

(d) In their working relationships with Members, Officers will:

(i) behave at all times in a professional manner;

(ii) strive to develop mutual levels of trust with all Members;

(iii) perform their duties efficiently and effectively with impartiality; and

(iv) maintain the highest standards of confidentiality.

Protocol On Member / Officer Relations

9.11.24 **What is the Protocol on Member / Officer Relations?**

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) Members and Officers share the following corporate values:

(i) **Joint leadership and Collaboration**

a. Members and Officers have vital roles to play in providing joint leadership which is based on shared knowledge skills and experience.

b. 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.

c. 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.

(ii) **Integrity and respect**

Members and Officers should;

a. champion mutual dignity, respect and inclusion;

b. promote open, honest communications allowing for two-way feedback and for issues to be addressed appropriately;

c. maintain Informal and collaborative two-way contact between with each other; and

d. ensure that their conduct is such as to instil 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 all their dealings by observing reasonable standards of courtesy.

(iii) **Focus on what matters**

a. 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.

b. Officers should provide clear professional advice and should be in touch, well informed and focused on outcomes.

c. Members and Officers should work to eliminate poor behaviour and conduct that undermines focus, achievements, and efficiency.

(iv) **Creativity**

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.

9.11.25 **What are the key differences between Members and Officers?**

The key differences between Members and Officers are set out in Table 7:

Table 7: The differences between Officers and Members

Members	Officers

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

9.11.26 **What are the principles of Member / Officer relationships?**

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.

(g) 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.

(h) Members must respect the impartiality of Officers and do nothing to compromise it, e.g., by insisting that an Officer change their professional advice.

(i) 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.

(j) 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 Mayor 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.

(k) As a matter of general principle, Members and Officers will:

  (i) deal with one another without discrimination;

  (ii) observe normal standards of courtesy in their dealings with one another;

  (iii) not take unfair advantage of their position;

  (iv) promote a culture of mutual respect;

  (v) communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings;

(vi) work together to convert the Councils core values and priorities into practical policies for implementation for the benefit of the Borough;

(vii) observe any advice relating to publicity during the pre-election period; and

(viii) refer any observed instances of inappropriate behaviour as necessary.

(l) Members must not be personally abusive to, or derogatory of Officers in any correspondence, on social media 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.

(m) 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.

(n) 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.

(o) Nothing in this Protocol shall prevent an Officer from making a protected disclosure under the Whistleblowing Policy which is published on the Council's website.

(p) 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 Head of Paid Service as appropriate. In these circumstances, the Head of Paid Service 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.

(q) 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 Head of Paid Service.

9.11.27 **How should Members and Officers conduct personal relationships with each other?**

(a) Guidance on personal relationships is contained within the Codes of Conduct.

(b) 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.

(c) It is clearly important that there should be a close working relationship between Executive Portfolio Holders, Group Leaders and representatives, 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.

(d) 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.

(e) 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.

9.11.28 **What is the role of Members in the Council?**

(a) 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:

(i) 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.

(ii) 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.

(iii) 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.

(b) Officers can expect Members to:

(i) provide political leadership and direction;

(ii) initiate and develop policy to be put before the Council or its Committees;

(iii) work in partnership, understanding and supporting their respective roles, workloads and pressures;

(iv) take corporate responsibility for policies and other decisions made by the Council;

(v) prepare for formal meetings by considering all written material provided in advance of the meeting;

(vi) leave day-to-day managerial and operational issues to Officers;

(vii) adopt a reasonable approach to awaiting Officers' timely responses to calls and / or correspondence;

(viii) not send emails to multiple Officers regarding the same issue, instead utilising one point of contact where possible;

(ix) use their position with Officers appropriately and not seek to advance their personal interests or those of others to influence decisions improperly;

(x) respect the dignity of Officers and not engage in behaviour which could be reasonably regarded as bullying or harassing in nature; and

(xi) have regard to the seniority and experience of Officers and, equally, have regard to the potential vulnerability of Officers at junior levels.

(c) 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 Head of Paid Service.

(d) When serving on the Council's Planning and Development Committee or the Licensing Committee, Members must also observe the protocols applicable to those Committees.

(e) 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.

(f) 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 any agreed Ward protocol.

9.11.29 **What is the role of Officers in the Council?**

(a) In broad terms Officers have the following main roles:

(i) Setting and implementing strategies to deliver Council policy and further the Council's priorities.

(ii) Day-to-day operational management of the organisation.

(iii) Implementing decisions of the Council which are lawful and which have been properly approved.

(iv) 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.

(v) Managing the Services for which they have been given responsibility within the framework of responsibilities given to them under the Scheme of Delegation.

(vi) Being accountable for the efficiency and effectiveness of the Services in which they work and demonstrating proper / professional practice in discharging their responsibilities.

(vii) Providing advice on changes in government policy for which the Council is responsible.

(viii) Providing professional advice on industry innovation and / or scientific development which may assist the Council in delivering Services.

(ix) Providing professional advice on innovations by other councils which may be adopted by the Council to improve service delivery.

(x) 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.

(xi) Initiating policy proposals in line with national government requirements or Council agreed priorities, as well as implementing the agreed policies of the Council.

(xii) Ensuring that the Council always acts in a lawful manner and does not engage in maladministration.

(xiii) 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.

(b) Members can expect Officers to:

(i) undertake their role in line with their contractual and legal duty to be impartial;

(ii) exercise their professional judgement in giving advice and not be influenced by their own personal views;

(iii) have an appreciation of the political environment in which they work and demonstrate political sensitivity;

(iv) 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;

(v) 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;

(vi) maintain due confidentiality;

(vii) behave in a professional manner and comply with the Officers' Code of Conduct;

(viii) be helpful and respectful to Members; and

(ix) respond in a timely manner to telephone calls, email correspondence etc.

(c) In their dealings with the public, Officers should be courteous and act with efficiency and timeliness.

(d) 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.

(e) Subject to the Council's Whistleblowing Policy and Procedure, 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.

9.11.30 **What is the role of Members in appointing Officers?**

(a) Officers are employed by the Council. Members may be involved in the appointment of specified senior posts as a member of the Chief Officer Appointments Sub-committee in accordance with the Officer Employment Procedure Rules but have no role in appointments outside otherwise.

(b) If participating in the appointment of Officers, Members should:

(i) remember that the sole criterion is merit;

(ii) never canvass support for a particular candidate;

(iii) not take part where the candidate is a close friend or relative;

(iv) not be influenced by personal knowledge of candidates; and

(v) not favour a candidate by providing them with information not available to other candidates.

9.11.31 **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.

9.11.32 **What support services are available to Members?**

(a) 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.

(b) 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.

(c) Paragraph (b) above does not apply to:

(i) limited private photocopying, which may be undertaken by Members, provided it is at no cost to the Council; and

(ii) 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.

9.11.33 **What considerations should Members and Officers have when making decisions?**

(a) 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 (see Section 13).

(b) Officers taking decisions (see Section 13) under delegated powers (see Section 10, part A) must consider whether the relevant Committee chair or Ward Member should be consulted based on the issue and taking into account political or corporate sensitivities where:

(i) the matter falls under the responsibility of the relevant chair's Committee; or

(ii) the matter relates to the relevant Ward.

(c) 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.

(d) 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.

9.11.34 **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.

9.11.35 **How do Officers work with Executive Portfolio holders?**

(a) Any decision by an individual Executive 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.

(b) Reports to Committees will normally be produced by Officers but there may be occasions when an Executive 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.

(c) Officers may be representing the decisions (internally and externally) of a single party Executive or an individual Executive Portfolio holder. Other Members will need to recognise that, in so doing, the Officer is representing an executive decision of the Council.

9.11.36 **How should Officers deal with Groups?**

(a) 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.

(b) 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:

(i) the meeting is held on Council premises;

(ii) notice of attendance is given to the appropriate Chief Officer and made available on request to the other Group Leaders.

(c) 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.

(d) 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.

(e) 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.

(f) 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 Head of Paid Service in writing, copying the correspondence to all the Group Leaders.

(g) 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.

(h) 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.

(i) Any difficulties or areas of uncertainty relating to an Officer giving advice to a Group should be raised with the Head of Paid Service who will discuss them with the relevant Group Leader(s).

9.11.37 **How should individual Members engage with Officers?**

(a) Any Group Leader, Executive Portfolio holder, Group spokesperson or Committee chair may request a private and confidential briefing from a Chief Officer 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 Chief or Deputy Chief Officer, 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.

(b) 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.

(c) Individual Members may request factual information from the Head of Paid Service (or the relevant Chief Officer). Such requests must be reasonable and must recognise the need for Officers to maintain the distinction between the Executive and scrutiny processes. Relevant Executive Members, Committee chairs and Group Leaders 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.

(d) If a Chief Officer 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 Mayor in consultation with the Group Leaders, will determine whether the information should be provided.

(e) 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.

(f) 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.

9.11.38 **What are Officers' obligations in relation to councillors and / or elected representatives from other council?**

(a) Officers may be requested to meet with councillors or elected representatives from other councils or organisations to provide briefings and / or policy advice.

(b) 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 Head of Paid Service who shall inform all Group Leaders of the arrangements.

9.11.39 **What support and advice is available to Members in relation to media relations?**

(a) A primary intention of the Government in introducing executive arrangements was to raise the public and media profile of Executive 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 Executive Portfolio holders in relation to the media will be provided on a confidential basis if requested.

(b) 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.

(c) The Head of Marketing and Communications and other Officers will also assist Members who are not Executive Members with their media relations (on a confidential basis if requested).

(d) 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.

9.11.40 **What are Officers' obligations in relation to Ward matters?**

(a) 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.

(b) Senior Officers will ensure that all relevant staff are aware of the requirement to keep local Members informed and that, subject to section (c) below, the timing of such information allows local Members to respond appropriately and contribute to relevant decisions.

(c) Any notification under this section 9.13.17 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.

(d) Local Members must be informed by the relevant Officers of the formative stages of policy development as it affects their Ward.

(e) 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 Head of Paid Service, share all significant Council news releases which affect the wider Council or a number of Wards with Members when they are published externally.

(f) 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.

(g) Whenever the Council undertakes any form of consultative exercise the local Members must be included.

(h) 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.

9.11.41 **What training is available to Members?**

(a) 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.

(b) 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.

9.12 Monitoring Officer Protocol

9.12.1 The Monitoring Officer 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.

9.12.2 The statutory responsibilities of the Monitoring Officer are set out at paragraphs 9.3.7(b), 9.7 and 10.24.11. 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.

What are the working arrangements between the Monitoring Officer and Members and Officers?

9.12.3 Having good working relations with Members and Officers will assist the Monitoring Officer in the discharge of their statutory responsibilities and ensure good governance. 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.

9.12.4 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[71];

(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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[71] 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 External 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 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[72] where another investigating body is involved;

(p) determine any application by a Member for a dispensation in consultation with the Chair of the Council;

(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 of Conduct;

(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

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[72] Local Government and Housing Act 1989, section 5

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;

(iv) advise 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) advise 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) advise 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.

9.12.5 To ensure the effective and efficient discharge of the arrangements set out above, Members and Officers will report any breaches of statutory duty or

Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

9.12.6 The Monitoring Officer and deputy 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.).

How will the Monitoring Officer deal with reportable incidents?

9.12.7 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;

9.12.8 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;

9.12.9 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;

9.12.10 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;

9.12.11 Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report when of the opinion that such is necessary in order to respond properly to a reportable incident. Where the issuing of such a report is contemplated, the Monitoring Officer will comply with the provisions of the Protocol for Statutory Chief Officers responsible for Governance at paragraph 9.10.11.

9.12.12 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.

How are breaches of this Protocol dealt with?

9.12.13 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 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.

What happens if the Monitoring Officer has a conflict in relation to a complaint?

9.12.14 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.

10 Responsibility For Functions

This section explains who is responsible for the various functions of the Council as follows:

Part A: A general introduction to local authority functions and how they are discharged.

Part B: Responsibility for Non-executive Functions:

- Full Council
- Audit Committee
- Chief Officer Committee
- Constitution & Member Development Committee
- Corporate Affairs Committee
- Licensing Committee
- Overview & Scrutiny Board & Committees
- Pension Fund Committee
- Planning & Development Committee
- Staff Appeals Committee
- Standards Committee
- Teesside Pension Fund Committee
- You Matter to Us – Corporate Parenting Committee
- Joint arrangements

Part C: Responsibility for Executive Functions

- Mayor
- Executive
- Portfolio Holders
- Executive Sub-committee for Property
- Joint arrangements

Part D: Scheme of Delegation of Functions to Officers

- Introduction
- General
- Statutory Officers
- Chief Officers
- Joint Arrangements

Part A Introduction

10.1 Introduction to local authority Functions

10.1.1 Any powers that local authorities have come from statute and therefore all the functions that they perform must also derive from statute.

10.1.2 Local authorities may make arrangements for the discharge of their functions by a committee, sub-committee or officer, or by any other local authority, and two or more local authorities may discharge any of their functions jointly.

10.1.3 Functions can be:

(a) Express - a direct obligation to do something; or

(b) General - for example, an obligation to provide unspecified support for a particular objective.

and include the power to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of a function[73].

10.1.3 All decisions made on behalf of the Council must be in accordance with the decision-making principles set out at Section 13.

10.1.4 In the event of uncertainty in respect of the responsibility for functions, the advice of the Monitoring Officer shall be sought and the following consulted:

(c) the Mayor in respect of Executive Functions;

(d) the Chair of the Council in respect of Non-executive or Local Choice Functions.

If appropriate, the Monitoring Officer will propose an amendment to the Responsibility for Functions to avoid future uncertainty.

10.2 What are the categories of functions performed by the Council?

10.2.1 The functions discharged by the Council fall into three distinct categories[74]:

(a) **Local Choice Functions:** The Council is able to choose who discharges these functions, in part or whole. Table 8 at paragraph 10.6.2 sets out these functions and shows who is authorised to discharge them.

(b) **Non-executive Functions:** These are functions which the law prevents the Executive from performing. In some cases, such as adopting the Council's budget or the Policy Framework, only full Council may discharge the function. In other cases, the Council may delegate the

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73 Section 79 of the Local Government Act 1972

74 Local Authorities (Functions and Responsibilities) (England) Regulations 2000

responsibility for discharging a Non-executive Function to a committee or an officer. Part B of this Section 10 sets out the Non-executive Functions and who is authorised to discharge them on behalf of the Council.

(c) **Executive Functions:** All other functions are Executive Functions. The Mayor is responsible for deciding the delegation of the Executive Functions in accordance with Section 6. Decisions on Executive Functions will be taken by the Executive, unless they are:

(i) dealt with under joint arrangements; or

(ii) delegated to:

a. a committee of the Executive;

b. a Community Committee;

c. the Health and Wellbeing Board; or

d. an officer.

Part C of this Section 10 sets out how the Executive Functions are delegated.

10.2.2 The arrangements for the responsibility for functions, and any changes, are made as follows:

(a) the responsibility for Executive Functions published within Part C of this Section 10 is reported by the Mayor to the Annual Meeting of Council. Any changes during the municipal year (which take effect from the date determined by the Mayor) are reported to the Monitoring Officer (prior to implementation) and the next available meeting of the Full Council;

(b) the responsibility for Non-executive and Local Choice functions set out at Part B of this Section 10 is approved at the Annual Meeting of Council with changes being approved at an ordinary meeting of the Full Council;

(c) the delegation of functions to officers, set out in the Officer Scheme of Delegation at Part D of this Section 10, is approved at the Annual Meeting of Council. Any fundamental changes to the scheme which do not fall within the authority delegated to the Monitoring Officer to maintain the constitution will be approved at an ordinary meeting of Council.

(d) the sub-delegation of responsibility for functions under the Officer Scheme of Delegations will be evidenced and published in a Decision Record by the relevant Chief Officer.

(e) Any change to the responsibility for functions will be reflected in the constitution, which is published on the Council's website.

10.3 Are Local Choice Functions Executive or Non-executive functions?

10.3.1 The Council is able to decide who the decision maker is for a limited number of functions – known as Local Choice Functions. It therefore can choose whether the function will be discharged by the Executive (in whole or in part) or Non-executive bodies such as Full Council or Committees.

10.3.2 The Council's choices are as set out in Table 8 below.

10.3.3 Each body may then determine what, if any, sub-delegation to implement in respect of the local choice function in accordance with the Decision-Making section (see Section 13).

10.3.4 Any sub-delegations are then set out in the Committee terms of reference, Executive Scheme of Delegation or the Officer Scheme of Delegation as appropriate.

10.4 How do joint arrangements operate?

10.4.1 Section 11 provides further information in relation to the operation of joint arrangements entered into by the Council with other bodies for the discharge of Functions.

10.4.2 The Executive can enter into joint arrangements for the discharge of Executive Functions.

10.4.3 The terms of reference of joint committees administered by the Council are set out in Part B of this section 10 if they are Non-executive in nature, and in Part C if they are Executive in nature.

10.5 What types of committees[75] does the Council have?

10.5.1 The law requires the Council to establish certain committees and identifies which functions they discharge. Sometimes it prescribes how they will operate. The Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes, which will usually be determined at the Annual Council Meeting, as set out in paragraph 4.8.

10.5.2 The Council has established:

(a) standing committees which meet regularly to discharge the functions delegated to them;

(b) occasional or ad hoc committees, which meet infrequently as and when required.

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[75] Section 101 of the Local Government Act 1972

The committees established by Full Council discharge Non-executive Functions, while the committees established by the Executive discharge Executive Functions.

10.5.3 Committees can be broadly separated into four categories:

(a) **Statutory**: committees the Council is required by law to establish, which are usually standing committees;

(b) **Regulatory**: committees discharging the Council's regulatory[76] functions which stem from statutory provisions that:

(i) impose or amend requirements, restrictions or conditions, or set or amend standards or give or amends guidance, in relation to the activity; or

(ii) relate to securing compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which relate to the activity.

Regulatory Committees make determinations on behalf of the Council where the matters can be delegated and are not:

(i) executive or overview and scrutiny functions;

(ii) already delegated elsewhere by the Council, or are statutory committee functions;

(iii) exercisable only by Council itself; or

(iv) exercised in a way which breaches or has the effect of breaching policies, strategies and overall budgets approved by Council or have adverse legal implications

The discharge of regulatory matters can impact upon the economy as well as health and safety. Appeals against decisions made by these committees tend to proceed via the courts or tribunals, which can award costs against the Council. To ensure quality of decision making, members of these committees are required to:

(i) complete mandatory training prior to attending the committee;

(ii) ensure they read all information provided within the agenda pack in advance of the committee meeting;

(iii) comply with the Decision-Making Principles at Section 13.

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76 Section 22 of the Small Business, Enterprise and Employment Act 2015

(b) **Advisory**: Advisory committees do not generally have authority to take decisions and rather advise Full Council and the Executive on specialist matters. They will usually be standing committees;

(c) **Other**: Committees that are neither statutory, regulatory or advisory in nature fall into this category. Some of these are standing committees meeting regularly, while others are required on an ad hoc basis.

It is important to note however that committees may fall into more than one category.

10.2.2 All Non-executive committees are politically balanced unless otherwise specified[77], whereas Executive Committees will not be politically balanced unless otherwise specified.

10.2.3 Committees may convene task and finish groups limited by time or function.

10.2.4 Committees regulate the conduct of the Council's business and make decisions in relation to regulatory, administrative and corporate governance matters. The detailed terms of reference, functions and powers delegated to each of these committees are set out at Part B (Non-executive) and Part C (Executive) of this section 10. The functions delegated to officers are set out at Part D (Scheme of Delegation).

10.2.5 The Council Procedure Rules at paragraph 4.8 apply to all Non-Executive committees while the Executive Procedure Rules at paragraph 6.17 apply to all Executive committees unless statutory rules take precedence or this constitution states otherwise.

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77 Local Government and Housing Act 1989

Part B Non-executive Functions

10.6 - Full Council

10.7 - Audit Committee

10.8 - Chief Officer Committee

10.9 - Constitution & Member Development Committee

10.10 - Corporate Affairs Committee

10.11 - Licensing Committee

10.12 - Overview & Scrutiny Board & Committees

10.13 - Planning & Development Committee

10.14 - Staff Appeals Committee

10.15 - Standards Committee

10.16 – Teesside Pension Fund Committee

10.17 - You Matter to Us – Corporate Parenting Committee

10.18 - Joint Committees:

- Durham Darlington Teesside Hambleton Richmondshire and Whitby STP Joint Overview & Scrutiny Committee
- Joint Archives Committee
- Live Well South Tees Board
- South Tees Health Scrutiny Joint Committee
- Tees Valley Health Scrutiny Joint Committee
- Tees Valley Combined Authority Scrutiny Committee

10.6 Full Council

Which Non-executive Functions are reserved to Full Council?

10.6.1 The Full Council discharges the following Non-executive Functions:

(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 paragraph 13.12, 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) in respect of a Committee, other than an Executive Committee:

(i) agreeing and / or amending the terms of reference;

(ii) deciding their composition;

(iii) making appointments to them;

(e) subject to any provision of regulations[78]:

(i) making arrangements for the discharge of functions by a joint committee or officer[79]; and

(ii) making appointments to joint committee[80];

(f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;

(g) in accordance with paragraph 5.8.1(c), adopting, amending and revoking a Members Allowances Scheme[81] (see paragraph 5.10);

(h) changing the name of the Borough, conferring the title of honorary alderman of Middlesbrough, or granting Freedom of the Borough;

(i) functions relating to:

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78 section 20 (joint exercise of functions) of the Local Government Act 2000

79 section 101(5) of the Local Government Act 1972 ("the 1972 Act")

80 section 102 (appointment of committees) of the 1972 Act

81 Regulation 2(5) & (6) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('2000 Regulations')

(i) name and status of areas and individuals[82];

(ii) changing governance arrangements[83];

(iii) making an order giving effect to recommendations made in a community governance review[84];

(iv) community governance[85];

(j) confirming the appointment of the Head of Paid Service;

(k) terminating the appointment of the Statutory Chief Officers in accordance with the procedure set out in the Officer Employment Procedure Rules (see paragraph 9.10);

(l) designating:

(i) an officer as the head of the council's paid service; and

(ii) an officer as the monitoring officer

and providing them with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed;

(m) making arrangements for the proper administration of the Council's financial affairs, including the power to make standing orders;

(n) appointment of "proper officers" for particular purposes under the Local Government Act 1972 and powers in relation to staff under section 112 of that Act;

(o) making arrangements in relation to elections[86];

(p) making, amending, revoking, re-enacting, or adopting Byelaws and promoting or opposing the making of local legislation or personal bills (being bills related to the personal affairs of an individual);

(q) all Local Choice Functions set out in the Scheme of Delegation which the Council decides should be undertaken by itself rather than the Executive; and

(r) all other matters which by law must be reserved to the Council.

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82 Section E of Schedule 1 to the 2000 Regulations

83 Section EA of Schedule 1 to the 2000 Regulations

84 Section 86 of the Local Government and Public Involvement in Health Act 2007;

85 Section EB of Schedule 1 to the 2000 Regulations

86 Section D of Schedule 1 of the 2000 Regulations

What local choice functions are reserved to Council?

10.6.2 The Full Council has designated the local choice functions set out below as non-executive functions and confirms what, if any, onward delegation is permitted in respect of the local choice functions:

Table 8: Local Choice Functions

URN	Function	Delegatee	
		Members	**Officers**
a.	Any function relating to contaminated land[87]	Yes	
b.	The control of pollution or the management of air quality[88]	Yes	
c.	To serve an abatement notice in respect of a statutory nuisance[89]		Yes
d.	To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area[90]	Yes	
e.	To inspect the authority's area to detect any statutory nuisance[91]	Yes	
f.	To investigate any complaint about the existence of a statutory nuisance[92]	Yes	

87 Part IIA Environmental Protection Act 1990 and subordinate legislation

88 Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

89 Section 80(I) Environmental Protection Act 1990

90 Section 8 of the Noise and Statutory Nuisance Act 1993

91 Section 79 of the Environmental Protection Act 1990

92 Section 79 of the Environmental Protection Act 1990

g.	To obtain information about interests in land[93]		Yes
h.	To obtain particulars of persons interested in land[94]		Yes
i.	To make agreements for the execution of highways works[95]		Yes
j.	To appoint (and revoke any such appointment) any individual: (a) to any office other than an office in which they are employed by the authority;	None – Full Council decision	
	(b) to any body other than – (i) the authority; (ii) a joint Committee of two or more authorities; or	None – Full Council decision	
	(c) to any Committee or sub Committee of such a body	None – Full Council decision	
k.	To make agreements with other local authorities for the placing of staff at the disposal of those other authorities	Yes	

What Committees has the Full Council established?

10.6.3 The Full Council has established committees to discharge Non-executive functions in accordance with section 101 of the Local Government Act 1972, as set out at paragraphs 10.7 to 10.17.

93 Section 330 of the Town and Country Planning Act 1990

94 Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

95 Section 278 of the Highways Act 1980

10.7 Audit Committee

10.7.1 The Audit Committee is an advisory committee providing the Full Council with an independent and high-level focus on the adequacy of governance, risk and control arrangements within the Council in accordance with Chartered Institute for Public Finance Accountancy ('CIPFA') guidance[96].

10.7.2 The committee consists of 7 Members. Executive Members may not be members of the Audit Committee. The Council may co-opt up to two independent non-voting members to the Audit Committee.

10.7.3 The committee ensures there is sufficient assurance over governance and risk and gives greater confidence to all those charged with governance of the Council that those arrangements are effective. The committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.

10.7.4 The following CIPFA terms of reference for the committee have been adopted and it will:

Governance, risk and control

(a) review the council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance;

(b) monitor the effective development and operation of risk management in the council;

(c) monitor progress in addressing risk-related issues reported to the committee;

(d) consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions;

(e) consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code;

(f) consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;

(g) review the assessment of fraud risks and potential harm to the council from fraud and corruption;

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96 Audit Committees: Practical guidance for local authorities and police, 2022 edition Cipfa.org

(h) monitor the counter fraud strategy, actions and resources;

(i) review the governance and assurance arrangements for significant partnerships or collaborations.

Financial and governance reporting

Governance reporting

(j) review the Annual Governance Statement ('AGS') prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the Chief Officer responsible for Internal Audit's annual opinion;

(k) consider whether the annual evaluation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives;

Financial reporting

(l) monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met;

(m) review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council;

(n) consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts;

Arrangements for audit and assurance

(o) consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council;

External audit

(p) support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments ('PSAA') or the authority's auditor panel as appropriate;

(q) consider the external auditor's annual letter, relevant reports and the report to those charged with governance;

(r) consider specific reports as agreed with the external auditor;

(s) comment on the scope and depth of external audit work and to ensure it gives value for money;

(t) consider additional commissions of work from external audit;

(u) advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies;

(v) provide free and unfettered access to the audit committee chair for the auditors, including the opportunity for a private meeting with the committee;

Internal audit

(w) approve the internal audit charter;

(x) review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations;

(y) approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources;

(z) approve significant interim changes to the risk-based internal audit plan and resource requirements;

(aa) make appropriate enquiries of both management and the Chief Officer responsible for Internal Audit to determine if there are any inappropriate scope or resource limitations;

(bb) consider any impairments to the independence or objectivity of the Chief Officer responsible for Internal Audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments;

(cc) consider reports from the Chief Officer responsible for Internal Audit on it's performance during the year, including:

(i) updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work;

(ii) regular reports on the results of the Quality Assurance Improvement Programme ('QAIP');

(iii) reports on instances where the internal audit function does not conform to the Global Internal Audit Standards ('GIAS')[97] and Local Government Application Note ('LGAN')[98],

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97 Mandatory for all public sector organisations.

98 Application Note Global Internal Audit Standards in the UK Public Sector - applicable from 1 April 2025

considering whether the non-conformance is significant enough that it must be included in the AGS;

(dd) consider the Chief Officer responsible for Internal Audit's annual report, including:

(i) the statement of the level of conformance with the GIAS and LGAN and the results of the QAIP that support the statement (these will indicate the reliability of the conclusions of internal audit);

(ii) the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the AGS);

(ee) consider summaries of specific internal audit reports as requested.

(ff) receive reports outlining the action taken where the Chief Officer with responsibility for Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions;

(gg) contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every five years;

(hh) consider a report on the effectiveness of internal audit to support the AGS where required to do so by the accounts and audit regulations[99];

(ii) provide free and unfettered access to the audit committee chair for Chief Officer responsible for Internal Audit , including the opportunity for a private meeting with the committee;

Accountability arrangements

(jj) report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions;

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99 The Accounts and Audit Regulations 2015 (as amended)

(kk) report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose;

(ll) publish an annual report on the work of the committee, including a conclusion on the compliance with the CIPFA Position Statement.

10.8 Chief Officer Committee

10.8.1 This is an occasional committee of 7 councillors (at least one of which shall be an Executive Member[100]) plus up to 3 ex officio members:

(a) The Mayor;

(b) The Deputy Mayor;

(c) An Executive Member.

10.8.1 The Council is required to have a committee to deal with employment matters relating to the Chief Officers with responsibility for Governance.

10.8.2 To discharge its functions, the Chief Officer Committee has two occasional sub-committees, drawn from the membership of the committee, as follows:

(a) Appointment Sub-committee;

(b) Disciplinary Sub-committee.

10.8.3 The membership of a sub-committee must include at least one Executive Member.

10.8.4 The Chief Officer Committee or its sub-committee may be required to convene as a matter of urgency to discharge disciplinary and dismissal procedures, as set out in the Officer Employment Procedure Rules (see paragraph 9.10).

10.8.5 Where the establishment of a sub-committee is required, three members shall be appointed as follows:

a) The Chair will serve as a member if available; if the Chair is unavailable, the Vice Chair will be contacted. Should both be unavailable, a Chair will be appointed at the meeting.

b) The remaining two members shall be selected in rotational order from a predetermined list, with at least one being an executive member as per 10.3.

c) Sub-committees are not required to reflect political proportionality

10.8.6 The Chief Officer Committee and appropriate sub-committee are authorised, subject to compliance with the Officer Employment Procedure Rules set out in paragraph 9.10, to discharge the following Non-executive Functions:

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[100] Paragraph 4(2) of Part 1 of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001

Appointment

(a) Shortlist, interview and make recommendations to Full Council to appoint the Head of Paid Service[101];

(b) Shortlist, interview and appoint Chief Officers other than the Head of Paid Service[102] provided that no objection is received from the Executive, unless such appointment is on an interim basis (six months or less), in which case the appointment will be made by the Head of Paid Service;

(c) Consider Joint Committee / Partner Organisation vacant posts at Director level and above.

Disciplinary

(d) suspend, and keep under review the suspension of, a Chief Officer;

(e) make recommendations to Full Council as to the dismissal of Head of Paid Service, Monitoring Officer or Chief Financial Officer[103];

(f) take disciplinary action[104] short of dismissal against Chief Officers;

(g) hear any grievance submitted by the Head of Paid Service and referred to it by the Chief Officer responsible for Human Resources;

(h) hear any appeal, referred to it by the Chief Officer responsible for Human Resources, against the outcome of the first formal stage of a grievance against the Head of Paid Service;

(i) deal with appeals[105] relating to grading, grievance and disciplinary action short of dismissal in respect of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer;

(j) deal with appeals relating to grading, grievance, dismissal and disciplinary action short of dismissal in respect of Chief Officers;

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101 Paragraph 4(1) of Part 1 of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001

102 As defined in section 2 of the Local Government and Housing Act 1989

103 Paragraph 4(1A) Part 1 of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001

104 'Disciplinary action' has the meaning set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

105 Any such appeals shall be heard by a differently constituted sub-committee from that which heard the original grievance or dealt with the original disciplinary proceedings, as the case may be

10.9 Constitution and Member Development Committee

10.9.1 This is an advisory committee of 9 Members which focuses on the maintenance of the constitution and the development of Members of the Council. The membership of the committee will include the Members appointed to the following roles:

(a) Chair of the Council;

(b) Vice-Chair of the Council;

(c) Deputy Mayor;

(d) Chair of the Overview and Scrutiny Board

plus 5 other members.

10.9.2 The Constitution and Member Development Committee is authorised to:

(a) review the Constitution and make recommendations to Full Council in respect of changes to the Constitution;

(b) advise and make recommendations to the Council on any matter relating to civic and ceremonial functions of the Council;

(c) develop and review the Member Development Policy.

10.10 Corporate Affairs Committee

10.10.1 This occasional committee has 7 Members, including the Chair of the Council, who shall be the chair of the Committee. Executive Members cannot be members of this committee.

10.10.2 The Corporate Affairs Committee is authorised to:

(a) consider and determine any Non-executive Function delegated to an officer, which is not within the terms of reference of any other committee;

(b) consider any items of urgency that would require the approval of the Council, as determined by the Head of Paid Service in consultation with the Chair of the Council and the Leader of the Majority Group;

(c) make recommendations to Full Council in connection with the discharge of any of its Non-executive functions.

10.11 Licensing Committee

10.11.1 The Council is the licensing authority under the Licensing Act 2003 (the '2003 Act)' and the Gambling Act 2005 (the '2005 Act').

10.11.2 The Licensing Committee is constituted as the statutory committee established under the 2003 Act[106] and the 2005 Act[107]. It discharges the Council's functions under the 2003 Act (in respect of the supply or sale of alcohol, regulated entertainment and the provision of late-night refreshment) and the 2005 Act (in respect of premises and permits used for gambling).

10.11.3 The Licensing Committee and its sub-committees also discharge regulatory functions not delegated to officers in respect of:

(a) site and premises licences (caravans, sex shops, tattooing etc);

(b) private hire and hackney carriage regulation;

(c) animal licences (zoos, pet shops, wild animals etc);

(d) food licences (food preparation, fishing etc); and

(e) health and safety matters.

10.11.4 The Licensing Committee is comprised of 14 Members, with a quorum of 4 unless the Committee (or any subcommittee formed by it) exercises functions under the Licensing Act 2003 or the Gambling Act 2005, when the quorum shall be 3 voting members.

10.11.5 The Licensing Committee may establish one or more sub-committees consisting of 3 members drawn from the membership of the Licensing Committee as needed and has appointed:

(a) Licensing Sub Committees A, B and C to exercise the Council's licensing functions under the Licensing Act 2003 and Gambling Act 2005 except so far as such functions have been delegated to Officers or another sub-committee;

(b) a Casino Licensing Sub Committee to determine applications for a large casino, should the Council decide to launch a competition under the Gambling Act 2005; and

(c) a Licensing Sub Committee General to exercise any other licensing function not otherwise delegated.

10.11.6 The Chair of the Licensing Committee will chair Licensing Sub-Committee A, the Licensing Sub Committee General and the Casino Licensing Sub

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106 Sections 6 and 7 of the Licensing Act 2003

107 Section 154 of the Gambling Act 2005

Committee. The Licensing Committee will appoint the Chairs of Licensing Sub-Committees B and C.

10.11.7 The committee and its sub-committees operate in accordance with the Council Procedure Rules except when statutory rules of procedure apply[108].

10.11.8 Where the Licensing Committee is unable to discharge any function delegated to it because of the number of its Members who are unable to take part in the consideration of discussion of any matter or vote on any question with respect to it, the Committee must refer the matter back to full Council as licensing authority[109], and full Council must discharge that function.

10.11.9 The licensing functions are delegated to officers as set out in Part D of this section save for the following which are reserved to the Licensing Committee or respective Sub-committee:

Table 9: Table of Licensing Functions

URN	Function	Committee	Sub-Committee
General Non-executive licensing functions			
(a)	review and make recommendations to the Council where appropriate on policies in relation to licensing functions;	Yes	
(b)	pass a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area.	Yes	
(c)	licence[110] sex shops, sex cinemas, sexual entertainment venues and		upon referral by an officer

108 Licensing Sub Committees hearings are subject to the Gambling Act (Proceedings of Licensing Committees & Sub Committees) (Premises Licences & Provisional Statements) (England and Wales) Regulations 2007, the Licensing Act 2003 (Hearings) Regulations 2005 together with any associated guidance, policy and codes of practice.

109 Section 7(9) of the 2003 Act and sections 154(3) and s232(2) of the 2005 Act

110 Part II and Schedule 3 of the Local Government Miscellaneous Provisions Act 1982

	sex establishments, including reviews, and to carry out associated functions		
(d)	pass a resolution that Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 should apply in the Council's area	Yes	
(e)	designate areas for street trading[111] as either consent, licensed or prohibited streets and associated functions	Yes	
(f)	determine applications for village greens or common land and associated functions[112]	Yes	
(g)	regulate the performance of hypnotism[113]		Upon referral by an officer
(h)	regulate charitable collections[114]	Where objections have been received or upon referral by an officer	
(i)	advise Full Council on the adoption, revision or replacement of the Private Hire and Hackney Carriage Policy	Yes	

111 Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

112 Commons Act 2006 and the Commons Registration Act 1965

113 Hypnotism Act 1952

114 Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939

(j)	license hackney carriages and private hire: (a) vehicles; (b) drivers; (c) operators	Yes	Upon referral by an officer
Licensing Act 2005 functions			
(k)	determine an application for a Personal Licence		If Police and or immigration officers object
(l)	determine an application for a Personal Licence with unspent convictions		If police object
(m)	determine applications for: a. Premises Licence / Club Premises Certificate; b. provisional statement c. variation of Premises Licence / Club Premises Certificate		If a relevant representation is made and not withdrawn
(n)	determine applications to: a. vary designated Premises Supervisor; b. transfer Premises Licence;		If Police and or immigration officers object
(o)	determine applications for interim authorities		If Police object
(p)	review Premises Licence / Club Premises Certificate		Yes
(q)	determine an objection to a Temporary Event Notice		Yes
Gambling Act 2005 functions			

(r)	determine stages 1 and 2 of any “large casino competition” [115]		Casio Licensing Sub-committee
(s)	regulation of premises used for gambling.	Yes	
(t)	determine applications for Premises Licences, Permits, Transfers, Provisional Statements and Temporary Use Notices		Sub-Committees A, B and C where representations have been received and not withdrawn
(u)	determine reviews of licences or permissions.		Yes

[115] should a competition be launched in accordance with the relevant requirements of the Gambling Act 2005, the Council’s Statement of Principles, any relevant Regulations, Code of Practice and Guidance.

10.12 Overview and Scrutiny Board and Committees

10.12.1 The Council is required to have at least one overview and scrutiny committee. Further details of the overview and scrutiny functions and arrangements are found in Section 7.

10.12.2 The Overview and Scrutiny Board comprises 15 members with quorum of 4 members. The Board's reports and recommendations advise the Council and the Executive on matters relating to policy, service delivery and the Budget.

10.12.3 The Overview and Scrutiny Board may appoint standing scrutiny panels or task and finish scrutiny panels to operate in accordance with the terms of reference set by the Board.

10.12.4 The Chair of the Overview and Scrutiny Board is responsible for a number of functions as set out throughout this constitution. They are summarised at paragraph 5.7.9.

10.13 Planning & Development Committee

10.13.1 The discharge of planning functions can have a substantial and emotive impact on the community. The Council has therefore determined that not all planning matters should be delegated to officers. It has established the committee to make decisions on behalf of the local planning authority on the most impactful planning applications and related similar regulatory matters.

10.13.2 The committee comprises 10 councillors. The Council has chosen not to have planning area or sub-committees.

10.13.3 The committee operates in accordance with the Council Procedure Rules except when statutory rules of procedure apply.

10.13.4 The planning and development functions are delegated to officers as set out in Part D of this section save for the following which are reserved to the Planning and Development Committee:

10.13.5 The Planning and Development Committee is authorised to:

(a) require information as to interests in land.

(b) give notice etc. of applications for planning permission.

(c) determine applications for planning permission.

(d) decline to determine applications for planning permission.

(e) grant planning permission for development already carried out.

(f) grant or refuse planning permission for development without complying with conditions to which previous planning permission is subject.

(g) determine applications for planning permission made by a local authority, alone or jointly with another person.

(h) make Tree Preservation Orders and determine applications for consent to take action in relation to trees within Tree Preservation Orders.

(i) consider and adopt supplementary planning guidance relating to Development Control matters and to develop Local Planning Guidance.

(j) consider Conservation Area Boundary Reviews and Designation and Conservation Area Character Assessments.

(k) issue a certificate for existing proposed lawful use or development.

(l) perform duties relating to applications for listed building consent and conservation area consent.

(m) apply for an injunction in relation to a listed building.

(n) grant consent for the display of advertisements.

(o) determine applications for listed building consent and related powers.

(p) determine applications for conservation area consent.

(q) issue enforcement notices in relation to demolition of unlisted buildings in a conservation area.

(r) impose any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions.

(s) determine whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject to the exercise of its functions.

(t) revoke any approval, consent, licence, permission or registration granted in the exercise of its functions.

(u) amend, modify or vary any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation restriction or term to which it is subject.

(v) determine whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration where there is a power to charge and the amount of the charge is not otherwise prescribed.

10.14 Staff Appeals Committee

10.14.1 This committee has 9 Members and will meet as sub-committees of 3 Members (being the Chair plus 2 other members) for the purpose of discharging its functions.

10.14.2 The Staff Appeals Committee is authorised to consider and determine any appeal made by an officer below the grade of Chief Officer[116] regarding:

(a) disciplinary action;

(b) grievances;

(c) grading.

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[116] As set out in section 2(6) of the Local Government and Housing Act 1989

10.15 Standards Committee

10.15.1 This statutory committee is responsible for discharging obligations in respect of standards of Member conduct (see Section 8).

10.15.2 The Standards Committee is authorised to:

(a) promote and maintain high standards of conduct by members and co-opted members of the authority[117];

(b) advise the Council in respect of the adoption, revision or replacement of the Member Code of Conduct;

(c) consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the borough has failed to comply with the parish council's code of conduct[118];

(d) following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations[119] on the form of action[120].

(e) advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of employees of the authority[121].

(f) grant dispensations[122] to Members, Co-opted members, Parish Councillors and the Mayor from the requirements relating to declarations of interest. The Monitoring Officer, in consultation with the Chair of the Standards Committee, may grant a dispensation where the matter is urgent and report it to the next available Standards Committee.

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117 Section 27 of the Localism Act 2011.

118 Section 28(6), (7) and (9) of the Localism Act 2011

119 Including to full Council, the Leader, the Head of Paid Service, or the relevant Group Whip

120 Section 28(11) of the Localism Act 2011

121 It is not the function of the Committee to determine or become involved in individual employee conduct or disciplinary cases

122 Section 33 of the Localism Act 2011

10.16 Teesside Pension Fund Committee

10.16.1 The Council is the Scheme Manager and Administering Authority for the Teesside Pension Fund. Members of this committee are obliged to adhere to the Fund's Knowledge and Skills Policy, including attendance at training events.

10.16.2 The membership of this committee comprises:

(a) 1 member nominated by Hartlepool Borough Council;

(b) 9 members nominated by Middlesbrough Borough Council;

(c) 1 member nominated by Redcar and Cleveland Borough Council;

(d) 1 member nominated by Stockton-on-Tees Borough Council;

(e) 1 representative of the other Scheme Employers in the Teesside Pension Fund, appointed in accordance with procedures agreed by the Chief Finance Officer and Monitoring Officer.

(f) 2 representatives of the scheme members of the Teesside Pension Fund, appointed in accordance with procedures agreed by the Chief Finance Officer and Monitoring Officer.

10.16.3 The Chair and Vice Chair of the committee shall be members of Middlesbrough Borough Council, elected annually by the Council. The Chair will be the Council's nominated representative, on behalf of Teesside Pension Fund, on the Border to Coast Pensions Partnership Joint Committee.

10.16.4 The quorum of the committee is 8, at least 5 of which must be councillors of Middlesbrough Borough Council.

10.16.5 Members of the Teesside Pension Board[123] shall be permitted to attend the committee meetings, including during consideration of exempt items.

10.16.6 The terms of office of members of the committee shall be:

(a) Up to 6 years for representative members (for other scheme employers and scheme members);

(b) Until the next ordinary local government election following their appointment for Councillors

All members of the committee may be reappointed for further terms.

10.16.7 In consultation with the Chief Finance Officer and professional advisers of the pension fund, the committee is authorised to:

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[123] to assist the Council in its role as a scheme manager of the Teesside Pension Fund

(a) ensure the Teesside Pension Fund is managed in compliance with the Local Government Pension Scheme Regulations, Her Majesty's Revenue & Customs requirements for UK registered pension schemes and all other relevant statutory provisions;

(b) ensure robust risk management arrangements are in place;

(c) ensure the Teesside Pension Fund is managed with due regard to, and in the spirit of, all relevant statutory and non-statutory best practice guidance;

(d) determine the Pension Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the overall management of the Fund, including in relation to the following areas:

(i) Governance - approving the Fund's Governance Policy and Compliance Statement for the Fund within the framework as determined by Middlesbrough Council and making recommendations to Middlesbrough Council about any changes to that framework;

(ii) Funding Strategy - approving the Fund's Funding Strategy Statement including ongoing monitoring and management of the liabilities, ensuring appropriate funding plans are in place for all employers in the Fund, overseeing the triennial valuation and interim valuations, and working with the actuary in determining the appropriate level of employer contributions for each employer;

(iii) Investment strategy - approving the Fund's Investment Strategy Statement and Compliance Statement including setting investment targets and ensuring these are aligned with the Fund's specific liability profile and risk appetite;

(iv) Administration Strategy - approving the Fund's Administration Strategy determining how the Council will the administer the Fund including collecting payments due, calculating and paying benefits, gathering information from and providing information to scheme members and employers;

(v) Communications Strategy - approving the Fund's Communication Strategy, determining the methods of communications with the various stakeholders including scheme members and employers;

(vi) Discretions - determining how the various administering authority discretions are operated for the Fund.

(vii) Monitor the implementation of policies and strategies on an ongoing basis.

(viii) in relation to the Borders to Coast asset pooling collaboration arrangements:

a. Monitor performance and recommend actions to the Committee, the Mayor or his Nominee (as the nominated person to exercise Shareholder rights and responsibilities), Officers Groups or BCPP Ltd, as appropriate;

b. Undertake the role of Authority in relation to the Inter Authority Agreement, including but not limited to:

i. Requesting variations to the Inter Authority Agreement;

ii. Withdrawing from the Inter Authority Agreement;

iii. Appointing Middlesbrough Council officers to the Officer Operations Group.

(ix) consider the Fund's financial statements and annual report.

(x) select, appoint, dismiss and monitor the Fund's advisers, including actuary, benefits consultants, investment consultants, global custodian, fund managers, lawyers, pension funds administrator, independent professional advisers and AVC provider;

(xi) liaise with internal and external audit, including providing recommendations in relation to areas to be covered in audit plans, considering audit reports and ensuring appropriate changes are made following receipt of audit findings

(xii) make decisions relating to employers joining and leaving the Fund, including which employers are entitled to join the Fund, any requirements relating to their entry, ongoing monitoring and the basis for leaving the Fund.

(xiii) Agree:

a. the terms and payment of bulk transfers into and out of the Fund;

b. Pension Fund business plans and monitoring progress against them;

c. the Fund's Knowledge and Skills Policy for all Pension Fund Committee members and for all officers of the

Fund, including determining the Fund's knowledge and skills framework, identifying training requirements, developing training plans and monitoring compliance with the policy;

d. Administering Authority responses to consultations on LGPS matters and other matters where they may impact on the Fund or its stakeholders.

(xiv) receive reports from the Chief Finance Officer, the Head of Investments and Treasury Management and other relevant officers in relation to delegated functions.

10.17 You Matter to Us – Corporate Parenting Committee

10.17.1 This standing committee promotes the Council's role as a Corporate Parent to those children and young people who are looked after and accommodated by the Council.

10.17.2 The committee comprises 9 Members, including the Executive Members responsible for Children and Education as ex-officio members. It may also co-opt a maximum of 4 non-voting members representing education and other agencies. It is not subject to political balance requirements.

10.17.3 The Corporate Parenting Committee promotes the seven principles of corporate parenting[124] by:

(a) acting in the best interests, and promoting the physical and mental health and well-being, of those children and young people;

(b) encouraging those children and young people to express their views, wishes and feelings;

(c) taking into account the views, wishes and feelings of those children and young people;

(d) helping those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners;

(e) promoting high aspirations, and seeking to secure the best outcomes, for those children and young people;

(f) ensuring those children and young people are safe, and have stability in their home lives, relationships and education or work;

(g) preparing those children and young people for adulthood and independent living

10.17.4 The committee is authorised to:

(a) ensure that the Council acts as a good corporate parent to children and young people in care and care leavers, including:

(i) children and young people in residential care;

(ii) children and young people in foster care;

(iii) children and young people placed for adoption;

(iv) children and young people placed at home under Care Planning, Placement and Case Review Regulations;

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[124] Section 1 of the Children and Social Work Act 2017

(v) young people who are living in supported lodgings;

(vi) young people in secure services;

(vii) young people in custody.

(b) engage with, and listen to, the views of children, young people and their carers for whom the Council is the parent;

(c) work in partnership with other statutory agencies to drive forward improvements in care;

(d) act as the governing body for the Virtual School for looked after children and young people;

(e) disseminate information, concerned with its responsibilities associated with corporate parenting, to all elected Members and relevant staff; and

(f) implement, maintain and review the Council's 'Corporate Parenting and Strategy' document.

10.18 Non-executive joint arrangements

The bodies listed in this section are all the joint arrangements which are not solely the responsibility of the Executive.

10.18.1 **Cleveland Fire and Rescue Combined Fire Authority**

(a) Cleveland Fire Authority[125] was established on 1 April 1996 as a Combined Fire Authority. It has 16 members appointed by the following authorities:

(i) appointed by Hartlepool Borough Council;

(ii) 4 appointed by Middlesbrough Borough Council;

(iii) 4 appointed by Redcar and Cleveland (Borough Council; and

(iv) 5 appointed by Stockton on Tees Borough Council.

(b) The Chair of Cleveland Fire Authority is appointed from within the members of the fire authority at its Annual Meeting and has its own constitution.

(c) Cleveland Fire Authority is responsible for the provision of fire and rescue services to the areas covered by the borough councils of Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton on Tees. It is a corporate body with many of the rights, duties and status of a local authority and is authorised to provide the functions of a fire authority as set out in:

(i) Fire and Rescue Services Act 2004;

(ii) Civil Contingencies Act (CCA);

(iii) Regulatory Reform (Fire Safety) Order 2005.

(d) Cleveland Fire Authority adopts, and is responsible for, its own constitution and the appointment of the required statutory officers.

10.18.2 **Cleveland Police and Crime Panel**

(a) Cleveland Police and Crime Panel is responsible for supporting the effective exercise of the functions of the Cleveland Police and Crime Commissioner ('CPCC').

(b) The Panel has 12 members appointed by the following authorities:

(i) 2 appointed by Hartlepool Borough Council;

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125 https://www.clevelandfire.gov.uk/about/fire-authority/

(ii) 3 appointed by Middlesbrough Borough Council;

(iii) 3 appointed by Redcar and Cleveland Borough Council; and

(iv) 4 appointed by Stockton on Tees Borough Council.

and two independent members.

(c) The authority administering the Cleveland Police and Crime Panel is Redcar and Cleveland Borough Council.

(d) The Cleveland Police and Crime Panel is authorised to:

(i) Review the draft Police and Crime Plan;

(ii) Scrutinise the CPCC's Annual Report;

(iii) Review the CPPC's proposed appointments to the roles of:

a. CPPC chief executive;

b. CPPC chief finance officer

c. Deputy Police and Crime Commissioner

d. Chief Constable

and indicate whether the candidate should be appointed

(iv) Review the actions of the CPCC;

(v) Review and veto the CPCC's proposed precept levels;

(vi) Respond to complaints about the CPCC;

(vii) Consult his Majesty's Inspector of Constabulary, Fire and Rescue Services (HMICFRS) on potential dismissals.

10.18.3 **Durham Darlington Teesside Hambleton Richmondshire and Whitby STP Joint Overview & Scrutiny Committee**

(a) This committee, which last met on 12 June 2019, comprises 21 members, with each of the following local authorities nominating three members:

(i) Darlington Borough Council;

(ii) Durham County Council;

(iii) Hartlepool Borough Council;

(iv) Middlesbrough Borough Council;

(v) North Yorkshire Council

(vi) Redcar and Cleveland Borough Council

(vii) Stockton on Tees Borough Council

(b) The committee is supported by Durham County Council and also attended by representatives of:

(i) County Durham and Darlington NHS Foundation Trust;

(ii) South Tees Hospitals NHS Foundation Trust;

(iii) North Tees and Hartlepool NHS Foundation Trust;

(iv) North Durham, DDES, Darlington, Hartlepool and Stockton and South Tees CCG[126]

(v) North of England Commissioning Support

10.18.4 **Live Well South Tees Board**

(a) The Live Well South Tees [Health and Wellbeing] Board is a statutory joint committee which meets the requirements of the Health and Social Care Act 2012.

(b) The Board comprises the following voting Executive and Non-executive members[127]:

(i) 5 Members from each local authority**.** For the Council the democratic representation will include:

a. the Mayor;

b. the Deputy Mayor;

c. 3 non-executive councillors nominated by Council;

(ii) the following officers, ex officio:

a. the Chief Officer with responsibility for Adult Social Care at Redcar & Cleveland Borough Council;

b. the Chief Officer with responsibility for Adult Social Care at Middlesbrough Borough Council;

c. Director of Public Health for Teesside;

d. The Chief Officer with responsibility for Children's Services at Middlesbrough Borough Council.

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126 Clinical commissioning groups (CCGs) were established as part of the Health and Social Care Act in 2012, replacing primary care trusts on 1 April 2013. On 1 July 2022, integrated care systems (ICSs) became legally established through the Health and Care Act 2022, and CCGs were closed down

127 in accordance with the requirements of the Health and Social Care Act 2012 and as determined by the Executive and Council.

(c) The following are non-voting members of the Board:

(i) Chief Executive of Middlesbrough Borough Council;

(ii) Managing Director of Redcar and Cleveland Borough Council

(d) The quorum for a meeting of the Board shall be 50%, which must include:

(i) the Chair or Vice Chair of the Board; and

(ii) an officer of the Council; and

(iii) an officer representing the Integrated Care System ('ICS').

(e) Administration of the Board alternates between the Council and Redcar and Cleveland Borough Council.

(f) The Board is authorised to:

(i) assess the health and wellbeing needs of their population by preparing, publishing and reviewing a joint strategic needs assessment ('JSNA');

(ii) publish a Joint Local Health and Wellbeing Strategy (JLHWS), which sets out the priorities for improving the health and wellbeing of its local population and how the identified needs will be addressed, including addressing health inequalities, and which reflects the evidence of the JSNA;

(iii) provide oversight of Pharmaceutical Needs Assessments;

(iv) sign off Better Care Funds and ensure a strategic, joined-up approach to the planning and delivery of services to improve the health and wellbeing of communities and to address inequalities where they exist;

(v) strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning decisions alongside commissioners across health and social care. The Board will also provide a forum for challenge, discussion, and the involvement of local people;

(vi) bring together commissioners of services to develop a shared understanding of the health and wellbeing needs of the community;

(vii) agree the framework for engaging all stakeholders, recognising the role of the independent, voluntary, community and social enterprise sectors and ensuring that the public are consulted on health and wellbeing issues;

(viii) review and monitor commissioning plans relevant to the JLHWS, facilitating integrated working (commissioning or service provision) where appropriate;

(ix) maximise the opportunity to make use of pooled budgets and joint commissioning arrangements to meet the needs of the local population, aligned to the JLHWS;

(x) monitor and evaluate the strategies and related performance through a relevant set of indicators and measures, agreed across the whole system and to report on progress to all stakeholders including public health outcome requirements;

(xi) maintain clear accountability, and liaison with appropriate bodies, including the Partnerships, Joint Commissioning Groups, Local Safeguarding Boards, Local Strategic Partnership and statutory bodies of the member organisations;

(xii) align the strategic priorities of member organisations and, where a dispute arises, ensure it is resolved in a timely and positive manner;

(xiii) be open to internal and external scrutiny, working positively and constructively with regulators and scrutiny bodies.

10.18.5 **North East Joint Health Scrutiny Committee**

(a) This joint committee comprises 12 Health Overview and Scrutiny Committee members, one from each of the constituent authorities.

(b) The Chair of the Committee is drawn from its membership, appointed by the committee on an annual basis. Democratic support of the committee will be provided by the authority of which the Chair is a member.

(c) Executive members may not be members of an overview and scrutiny committee[128].

(d) Members of the constituent local authorities who are Non-Executive Directors of the NHS cannot be members of the Joint Committee.

(e) The joint committee is authorised to convene task and finish working groups.

(f) The objectives of the joint committee are to:

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128 Section 21(9) of the Local Government Act 2000

(i) develop an understanding of the health of the North East region's population and contribute to the development of policy to improve health and reduce health inequalities;

(ii) ensure, wherever possible, the needs of local people are considered as an integral part of the commissioning and delivery of health services;

(iii) undertake all the necessary functions of health scrutiny in accordance with the NHS Act 2006, regulations and guidance relating to reviewing and scrutinising health service matters;

(iv) review proposals for consideration or items relating to substantial developments/substantial variations to services provided across the North East region by NHS organisations, including:

a. Changes in accessibility of services;

b. Impact of proposals on the wider community;

c. Patients affected.

(v) examine the social, environmental and economic well-being responsibilities of local authorities and other organisations and agencies within the remit of the health scrutiny role.

10.18.6 **Northumbria Regional Flood Defence Committee**

(a) The Regional Flood and Coastal Committee (RFCC) is a committee established by the Environment Agency129. It comprises independent members with relevant expertise and one member appointed by each of the following north east Lead Local Flood Authorities (LLFAs):

(i) Darlington Borough Council;

(ii) Durham County Council;

(iii) Gateshead Borough Council;

(iv) Hartlepool Borough Council;

(v) Middlesbrough Borough Council;

(vi) Newcastle City Council;

(vii) North Tyneside Council;

(viii) Redcar and Cleveland Borough Council;

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129 Section 22 of the Flood and Water Management Act 2010

(ix) Stockton-on-Tees Borough Council

(x) South Tyneside Borough Council;

(xi) Sunderland City Council

(b) The joint committee is administered by the Environment Agency for the following purposes:

(i) ensuring there are coherent plans for identifying, communicating and managing flood and coastal erosion risks across catchments and shorelines;

(ii) encouraging efficient, targeted and risk-based investment in flood and coastal erosion risk management that represents value for money and benefits local communities

(iii) providing a link between the Environment Agency, LLFAs, other risk management authorities, and other relevant bodies to build understanding of flood and coastal erosion risks in its area

10.18.7 **River Tees Port Health Authority**

(a) River Tees Port Health Authority is a body corporate created by the Secretary of State for Health[130]. Its membership comprises the following representatives from the four riparian authorities of the Port of Tees and Hartlepool:

(i) 2 members from Hartlepool Borough Council;

(ii) 5 members from Middlesbrough Borough Council;

(iii) 5 members from Redcar and Cleveland Borough Council;

(iv) 5 members from Stockton-on-Tees Borough Council

(b) The Authority is managed by Redcar and Cleveland Borough Council.

(c) The purpose of the Authority is to ensure compliance with controls in relation to imports, hygiene, environmental standards and immigration.

(d) The Authority is authorised to discharge the following functions:

(i) manifest and documentary checks relating to third country food and feed;

(ii) identity and physical checks, including sampling;

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[130] River Tees Porth Health Authority Order 2016

(iii) inspection of ships and responding to all requests for ship sanitation certificates;

(iv) ensuring conditions onboard ships are hygienic, in particular, food preparation and storage, pest control, communicable disease control, and international pollution prevention;

(v) investigating and reducing the incidence of food poisoning and food-borne disease at the port and on ships entering the port;

(vi) monitoring the wholesomeness and sufficiency of water supplies at the port and onboard ships entering the port.

10.18.8 **South Tees Health Scrutiny Joint Committee**

(a) This joint committee comprises 5 members from Middlesbrough Borough Council and 5 members from Redcar and Cleveland Borough Council.

(b) The quorum for a meeting of this joint committee is 4, provided that both councils are represented.

(c) Administration of this committee will alternate between the councils.

(d) The committee is authorised[131] to review and scrutinise relevant health service providers and commissioners in Middlesbrough and Redcar & Cleveland and any issue or topic pertaining to the south of the Tees health economy in accordance with agreed protocols.

10.18.9 **Tees Valley Combined Authority**

(a) This body brings together the five councils which serve the Tees Valley:

(i) Darlington Borough Council;

(ii) Hartlepool Borough Council;

(iii) Middlesbrough Borough Council;

(iv) Redcar & Cleveland Borough Council;

(v) Stockton on Tees Borough Council

to secure investment, create jobs and grow the economy.

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131 under powers for local authorities to scrutinise the NHS contained in the Health and Social Care Act 2001, the NHS Act 2006, the Health and Social Care Act 2012 and related regulations.

(b) The Council nominates members to a number of committees created by the combined authority, including non-executive joint committees in respect of:

(i) audit and governance;

(ii) overview and scrutiny.

Part C: Responsibility for Executive Functions

10.19 - Mayor

10.20 - Executive

10.21 - Portfolio Holders

10.22 - Executive Committees, Sub-committees and Advisory panels:

- Property
- Local Plan Working Group

10.23 - Executive Joint Arrangements:

- Joint Archives Committee
- Emergency Planning Joint Committee
- Tees Valley Combined Authority – Cabinet

Part C – Executive Functions

This section of the constitution builds on the information contained within Section 6 in respect of the discharge of Executive Functions. It is the Executive Scheme of Delegation referenced in paragraph 6.7(d).

10.19 Mayor

10.19.1 The Mayor exercises all of the Executive Functions of the local authority which are not the responsibility of any other part of the Council, by law or under this Constitution in accordance with paragraph 6.17.

10.19.2 In addition, the Council has identified Local Choice functions, as defined at paragraph 10.2.1(a) and set out in Table 8 at paragraph 10.6.2, which will be discharged by the Mayor.

10.19.3 The Mayor exercises the Council's rights as shareholder in BCCP Limited on behalf of the Teesside Pension Fund.

10.19.4 The Mayor has delegated responsibility for the discharge of Executive Functions, as set out in this Part C of Section 10, to:

(b) The Executive;

(c) Individual members of the Executive;

(d) A sub-committee of the Executive;

(e) Officers;

(f) Joint arrangements.

10.19.5 Executive Decisions shall be taken, recorded and documented in accordance with the decision making principles set out at Section 13.

10.20 Executive

10.20.1 The Mayor has delegated authority to the Executive to discharge the following Executive Functions:

Decisions

(a) making Executive decisions at a public meeting of the Executive, convened in accordance with the Access to Information Procedure Rules;

(b) making Key Decisions not otherwise delegated by the Mayor;

(c) taking significant decisions on Council-wide matters which are not Key Decisions;

(d) making all non-key decisions which have been referred to it by the relevant Executive Portfolio Holder or Chief Officer or where:

(i) the matter under consideration is a high-profile matter;

(i) the decision has a significant budgetary impact;

(ii) there is a need, or it is considered prudent, to engage the public and / or raise public awareness; and / or

(iii) the function / matter provides important performance management information.

(e) considering reports referred to the Executive by the Overview and Scrutiny Board and its Scrutiny Panels;

(f) risk management and regular reviews of the strategic risk register.

Finance

(g) developing proposals for the budget, including the capital and revenue budgets, the fixing of the council tax base and the level of council tax, as well as the financial strategy of the Council, for submission to Full Council;

(h) allocating funding within the budgetary framework, together with proposals and overall expenditure levels, for projects with significant corporate implications, including those for which it is proposed to let a contract, in accordance with Financial Procedure Rule D;

(i) management of the council's capital programme and strategy;

(j) virements between budgets in accordance with the Budget and Policy Framework

(k) awarding of (or authority to procure) contracts of a total value above £250,000 and all matters reserved to the Executive under the contract procedure rules;

Policy

(l) recommending major new policies (and amendments to existing policies) to the Council for approval as part of the Council's Policy Framework and implementing those approved by Council;

(m) save for matters reserved to Full Council, developing and adopting 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.

(n) within the framework approved by full Council, determining overall council priorities for services and projects and re-allocating financial and other resources accordingly;

(o) monitoring and managing Council-wide strategic performance and financial management with associated action;

10.20.2 The decisions taken by the Executive are subject to the Council's procedures for delayed implementation and call - in as set out in the Access to Information Procedure Rules at Section 14.

10.21 Portfolio Holders

10.21.1 The Mayor has created portfolios of responsibility for the Executive and assigned them to members of the Executive as follows:

	Role	Areas of Responsibility
a.	The Mayor	Budget & Policy Framework Performance Framework Staffing Legal & Democratic Services Marketing & Communications Policy, Governance & Information Strategy, Business & Customer ICT Democratic Services Transformation Elections Registrars Combined Authority
b.	Environment & Sustainability	Parking, roads & transport Infrastructure Rubbish & Recycling Highways Environment Climate Change Bereavement Services
c.	Adult Social Care & Public Health (Mental Health Champion)	Health & Wellbeing Access Adult Safeguarding Homelessness Adult Learning Disabilities Member development

		Adult Social Care
d.	Development	Planning & Development
		Building Control
		Property & Assets
		Employment & Skills
		Growth
		Strategic Transport
e.	Culture & Education	Culture & Tourism
		Education 0 – 19
		Adult learning
		Partnerships
		Equality & Inclusion
		Sport & Leisure
		Community Hubs & Libraries
f.	Neighbourhoods	Business & Licensing
		Crime & safety
		Community Facilities
		Housing
		Voluntary Sector
		Emergency Planning
g.	Children's Services	Corporate parenting
		Residential Services
		Child Safeguarding
		Children & Young People Social Care
h.	Finance	Procurement
		Finance
		Risk Management
		Member Development

10.21.2 Executive Portfolio Holders will normally be responsible for the following matters in relation to the functions and service areas within the scope of their Executive portfolio:

(a) minor variations to existing policies and procedures;

(b) oversight of departmental service plans, having regard to the Budget and Policy Framework;

(c) monitoring of service performance information;

(d) oversight of service performance, including improvement plans, external inspection, reviews and non-strategic corporate matters;

(e) oversight of plans and strategies, which are not part of the Budget and Policy Framework.

(f) decisions which are within the Executive Portfolio Holder's remit;

(g) 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.

10.22 Executive Committees and Sub-committees

10.22.1 **Property**

The Executive has appointed this committee, comprised of all members of the Executive, and authorises it to:

(a) determine the Council's corporate property priorities;

(b) approve the allocation of resources from the Small Scheme Allocation budget;

(c) be consulted upon the capital programme.

(d) determine 'in year' changes to the new start investment programme and small scheme allocation projects should it become necessary.

(e) consider and determine 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 Procedure Rules and the Procurement and Contract Procedure Rules;

(f) be consulted upon planning brief proposals;

(g) establish effective communication channels to cascade the Council's corporate property priorities

10.22.2 **Local Plan Working Group**

(a) This executive advisory body comprises the Mayor plus the Executive members with responsibility for Regeneration, the Environment and Finance.

(b) Other Members or relevant stakeholders may be invited to the meeting on an ad hoc basis;

(c) Meetings will be arranged on a regular basis with a view to supporting the local plan timetable.

(d) The working group is authorised to:

(i) guide the preparation of the Local Plan and other planning documents as appropriate;

(ii) advise on Local Plan timetable set out in the Local Development Scheme (LDS).

(iii) facilitate information exchange between members and officers.

(iv) champion the Local Plan review and updates to other members;

(v) review growth strategy and housing numbers;

(vi) ensure integration with Corporate Strategies e.g., Strategic Plan.

(vii) consider key issues for the local plan and options to address them, drawing on the local knowledge of members;

(viii) role in consultation / engagement as per the Statement of Community Involvement;

(ix) engage positively in establishing the evidence base for the plan and the response to it.

10.23 Executive Joint Arrangements

10.23.1 The bodies listed in this section are the joint arrangements which are the responsibility of the Executive.

10.23.2 **Joint Archives Committee**

(a) A joint committee of the Boroughs of Hartlepool, Stockton, Middlesbrough and Redcar & Cleveland to manage documentary and other historic material through a Joint Archive Service following the abolition of Cleveland County Council on 31 March 1996.

(b) The committee is authorised to discharge the functions of the constituent councils under the Local Government (Records) Act 1962 so that:

(i) storage and maintenance facilities are provided for archives relating to or deriving from the areas of the participating local authorities; and

(ii) there is an adequate means of reference to the records and facilities provided for the public to inspect and take copies of deposited documents

(c) The committee will exercise Executive Functions in accordance with the terms of the agreement currently in operation.

10.23.3 **Emergency Planning Joint Committee**

(a) This joint committee comprises one member from each of the Borough Councils for Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees.

(b) The executive member with responsibility for Regeneration represents the Council on this committee.

(c) The Committee is authorised to agree budgetary provision from the four Authorities to the Emergency Planning Unit;

(d) The joint committee is administered by Hartlepool Borough Council;

10.23.4 **Tees Valley Combined Authority - Cabinet**

(a) The Cabinet of the combined authority comprises:

(i) The Tees Valley Elected Mayor (voting);

(ii) 1 representative from each constituent authority;

(iii) a member appointed by the Local Enterprise Partnership (non-voting).

(b) No member on the Cabinet has a casting vote therefore a tied vote on any matter is deemed not carried;

(c) The unanimous vote of the Mayor and members appointed by constituent authorities present and voting is required for:

(i) adoption of investment plan

(ii) setting transport levy

(iii) such other plans and strategies as determined by the Combined Authority and set out in its standing orders

(d) The quorum for a meeting of the Cabinet is the Mayor (or deputy Mayor) plus 3 members from constituent councils.

(e) The Cabinet is authorised to monitor and evaluate the operation of the constitution of the combined authority;

(f) The Mayor also nominates members of the Executive to various executive committees of the combined authority, including:

(i) Education, Employment and Skills Partnership Board

Responsible for agreeing all Tees Valley education, employment and skills policy, provisioning and partnership activities for the Combined Authority, including allocating key resources to achieve goals.

(ii) Transport Committee

Responsible for:

a. agreeing any transport related business plans delegated to it by the Cabinet as the TVCA may delegate to the TVTC;

b. agree national representation (including substitutes) on transport Boards and influencing groups where a Tees Valley representative is required.

c. delegating appropriate transport d any appropriate transport functions by unanimous vote to Constituent Authorities.

The council's representative on the Transport Committee of the combined authority shall be the Executive Member for Regeneration.

Part D: Scheme of Delegation of Functions to Officers

10.24 - Introduction to delegations

10.25 - Chief Officer delegations (including Statutory Chief Officer Delegations)

10.26 - General delegations

10.27 - Statutory Officer delegations

10.28 - List of Proper Officers

10.24 Introduction

What is the Scheme of Delegations?

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, which is the Responsibility for Functions section, and Officers, which is referred to as the Scheme of Delegations. The Scheme of Delegation provides the framework by which decisions are made at the right level in the Council to allow it to operate efficiently, effectively and economically and so meet the duty of best value.

10.24.1 What does the Scheme of Delegations authorise officers to do?

(a) Officers have the power to undertake, without further reference to the delegating body, matters of day-to-day management and associated activities set out within this scheme of delegation. This includes making decisions, spending money and taking actions for the benefit the Borough, its residents and other stakeholders.

(b) This scheme is to be interpreted widely to give effect to the overall purpose of empowering staff to carry out their functions and deliver the Council's services within the Budget and Policy Framework (see paragraphs 4.4 and 4.5, and Section 15) set by the Council, subject to the guidelines set by the Council, the Executive and the Head of Paid Service.

10.24.2 What is not delegated by this scheme?

(a) Officers shall not exercise delegated authority for any matter which:

(i) by law may not be delegated to an Officer;

(ii) is specifically excluded from delegation by this Scheme, by a decision of the Council, the Executive, or other Committee or Sub-Committee;

(iii) the Governance Statutory Chief Officers have given a direction about;

(iv) is a Key Decision; or

(v) involves consideration of one of the following:

a. certain Ombudsman Reports[132];

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[132] section 31A - Local Government Act 1974

b. reports of the Chief Finance Officer[133];

c. reports of the Head of Paid Service[134];

d. reports of the Monitoring Officer[135];

e. certain functions relating to non-domestic rating[136];

f. certain functions relating to council tax[137];

(vi) would, in their reasonable opinion, having taken professional advice (financial, legal etc.), conflict with:

a. or result in a change or departure from, any decision or policy agreed by the Council or the Executive[138];

b. the Constitution or any part of it;

c. advice from the Governance Statutory Chief Officers or the external auditor carrying out their statutory functions;

d. the capital or revenue budget in the current or any future year to a significant extent;

(vii) would result in:

a. the setting up of a company or other legally binding partnership arrangement with another body;

b. a personal or private conflict of interest;

c. unlawful or ultra vires activity or actions, as advised by the Monitoring Officer;

d. a very significant change in the model of service delivery in the opinion of the relevant Chief Officer or the Head of Paid Service;

e. the permanent closure of a facility used by the public, or a permanent and significant reduction in the level of services or facilities provided to the public, other than where such closure or reduction in service is

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133 section 115 - Local Government Finance Act 1988

134 section 4(5) - Local Government and Housing Act 1989

135 section 5(5) - Local Government and Housing Act 1989

136 section 139 - Local Government Finance Act 1988

137 section 67 - Local Government Finance Act 1992

138 other than determination of planning applications where the departure from the development plan is determined in accordance with section 54A of the Town and Country Planning Act 1990.

considered necessary by the relevant Chief Officer or Head of Paid Service for reasons of health and safety;

f. the exposure of the Council to a significant or unusual level of risk, financial or otherwise, as determined by a Governance Statutory Chief Officer.

(b) The exercise of any powers not contained in the Scheme of Delegations must be subject to an explicit authority from the Council, the Mayor or the Executive, as appropriate or the action will be ultra vires.

10.24.3 **Can delegations be made to officers outside of this scheme of delegation?**

Decision makers can give delegated authority outside of the scheme of delegations as follows:

(a) The Mayor and the Executive may agree delegations to officers in addition to the powers set out in this Scheme:

(i) by express decision at a formal meeting, which shall be recorded in the minutes of the meeting of the Executive or one of its committees; or

(ii) by an individual Executive Member following receipt of advice from the Monitoring Officer, which decision shall be evidenced by a written Decision Record in accordance with the decision making provisions at Section 13.

(b) The Council (or a committee or sub-committee of the Council) may agree delegations of non-executive powers to officers in addition to the powers set out in this Scheme by express decision in a meeting recorded in the minutes of the meeting.

10.24.4 **How should delegated authority be used?**

(a) In exceptional circumstances, following consultation with the Head of Paid Service:

(i) officers may choose not to exercise powers delegated to them and can instead refer the matter back to the body that delegated the power to them;

(ii) the delegating body may choose to exercise a power it has delegated to officers.

(b) Before exercising any delegated power, officers must consider whether to consult with the relevant Executive Member or Committee Chair on the exercise of delegated powers.

(c) Officers should have regard to the views of the relevant Executive Member or Committee Chair before making delegated decisions.

(d) All decisions made under delegated authority must comply with the decision making provisions at Section 13 as well as this Section 10.

10.24.5 **Can delegated authority be subject to further sub-delegation?**

(a) The Council operates a cascade principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected.

(b) Officers with delegated powers may further delegate any or all of their powers to other officers within their Directorate (or in the case of the Head of Paid Service, to any officer), save where prohibited by law and subject to the requirements of this Scheme of Delegation.

(c) Chief Officers are required to prepare and adopt a Scheme of Sub-delegation for their directorate, which decision shall be evidenced in a Decision Record.

(d) Chief Officers are required to maintain and update their scheme of sub-delegation as appropriate, evidencing changes by a Decision Record.

10.24.6 **How are decisions made using delegated authority recorded?**

The requirements for evidencing that a decision has been made, using authority delegated from another decision maker or otherwise, are set out in Section 13.

10.24.7 **When can the Monitoring Officer update the Scheme of Delegation?**

The Monitoring Officer has delegated authority to update the Constitution as set out at paragraph 2.5 to reflect changes to terminology and council organisational structure, arising from legislative changes or service reviews and restructures within the Council.

10.25 Chief Officer delegations

10.25.1 This section sets out specific delegations to individual Officers retained by the Council. The general delegations to Officers are set out at paragraph 10.26. Chief Officers may sub-delegate any of their specific delegations in accordance with paragraph 10.24.5

10.25.2 The Chief Executive is designated as the Head of Paid Service and is therefore responsible for discharging the statutory obligations outlined at Section 9 and as set out below.

Chief Executive

Head Of Paid Service

10.25.3 The Head of Paid Service will:

(a) have responsibility for the corporate and overall strategic management of the Council including:

(i) establishing a framework for management direction, style, and standards;

(ii) monitoring the performance of the organisation;

(iii) determining and publicising a description of the management structure and deployment of officers;

(iv) report to Full Council on:

a. the manner in which the discharge of the Council's functions is co-ordinated;

b. the number and grade of officers required for the discharge of functions; and

c. the organisation of officers;

(b) provide advice to all parties in the decision making process;

(c) maintain a system of record keeping for decisions;

(d) represent the Council on partnerships and external bodies; and

(e) publish on the Council's website, and once a year in at least one local newspaper, a notice regarding the Forward Work Programme.

10.25.4 The Council has delegated to the Head of Paid Service the following Non-Executive functions:

(a) Where an emergency or disaster involving destruction of or danger to life or property occurs, or there are reasonable grounds for believing such an emergency or disaster to be imminent, and the

Head of Paid Service is of the opinion that it is likely to affect all or part of the inhabitants of the Borough, they have all the Council's powers to incur expenditure delegated to them by law[139]. Before exercising this delegated power, the Head of Paid Service shall:

(i) if possible, consult the Mayor or, in their absence, the Executive Member in charge of the relevant Portfolio. The Head of Paid Service shall inform the relevant members of the action taken as soon as practicable.

(ii) as soon as practicable, endeavour to inform any Councillor whose Ward is affected setting out what, in their opinion, needs to be done immediately and what has already been done.

(iii) report to the Council, and any other relevant body, any action taken under the powers delegated above as soon as practicable, including the extent to which it has been necessary to operate outside the Procurement and Contract Procedure Rules and Financial Procedure Rules (see Section 12). This report will include details of actions taken by others under (iv) below. Where the delegated powers in this section (a) are exercised, the Procurement and Contract Procedure Rules and Financial Procedure Rules are deemed to be waived for that purpose.

(iv) In the absence of the Head of Paid Service, the lead Officer operating under the Council's emergency management procedures may exercise the delegated authority of the Head of Paid Service under this section. This Officer shall report back to the Head of Paid Service as soon as possible.

(b) The Head of Paid Service's use of emergency powers shall only be permitted during the period for which the relevant emergency or disaster is continuing, as determined by the Head of Paid Service, in consultation with the Mayor.

10.25.5 The Mayor has delegated to the Head of Paid Service the following Executive Functions:

(a) Corporate affairs;

(b) Policy;

(c) Planning

(d) Performance

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[139] Section 138 of the Local Government Act 1972

(e) Communications;

(f) To take Key Decisions where a decision is urgent and neither the Mayor nor the Deputy Mayor is available.

Corporate Director of Finance

10.25.6 The Corporate Director of Finance is designated as the Chief Finance Officer and is therefore responsible for discharging the statutory obligations set out at Section 9 of the Constitution and below.

10.25.7 The Chief Finance Officer will:

(a) have statutory responsibility for the financial administration and stewardship of the Council[140], including:

(i) the proper administration of the Council's financial affairs;

(ii) setting and monitoring compliance with financial monitoring standards;

(iii) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;

(iv) providing financial information;

(v) preparing the revenue budget and the capital programme;

(vi) treasury management, pension and trust funds; and

(vii) advising on the safeguarding of assets including risk management and insurance;

(b) be responsible for maintaining a continuous review of the Financial Procedure Rules and:

(i) submitting any additions or changes necessary to the Executive and for approval to Full Council;

(ii) reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and / or the Executive;

(c) nominate a properly qualified member of staff to deputise should they be unable to perform their duties to make statutory reports[141];

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140 Local Government Act 1972, section 151; Local Government Finance Act 1988; Local Government and Housing Act 1989; Accounts and Audit Regulations 1996

141 Section 114 of the Local Government Finance Act 1998

(d) approve all financial procedures, records, systems and accounts operated through the Council including any changes which are subsequently proposed and:

(i) keep the principal accounting records for all Services of the Council and advise on the retention and safe custody of all accounting records;

(ii) ensure that the accounts and accompanying reconciliations are properly prepared and presented for audit in accordance with relevant guidelines and statutes;

(iii) undertake the day-to-day management of the financial work of the Council;

(iv) produce and circulate to relevant officers a set of guidance notes for the production of final accounts;

(v) present the Statement of Accounts for the year in question to the Council's external auditors; and

(vi) retain copies of the Statement of Accounts;

(vii) be informed of the existence of all 'unofficial funds'[142] and issue and update accounting instructions for them where necessary;

(viii) be authorised to pay all amounts to which the Council is legally committed;

(ix) 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;

(x) authorise arrangements for payments to be automatically debited from the Council's bank account;

(xi) set out the arrangements necessary to ensure that all monies due are received and banked promptly;

(xii) with the Monitoring Officer, take all reasonable steps to obtain recovery of debts;

(e) 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;

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[142] 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 their employment by the Council or other employment, e.g. the Governors of a school or other semi-autonomous body

(f) 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;

(g) ensure secure arrangements for the preparation and holding of pre-signed cheques, stock certificates, bonds and other financial documents;

(h) ensure that adequate insurance protection is maintained for the Council's assets and operations, where it is considered to be cost effective and appropriate;

(i) maintain adequate and effective internal audit arrangements;

(j) ensure accounting arrangements for partnerships and joint ventures are satisfactory and that the risks have been fully appraised before agreements are entered into with external bodies;

(k) ensure that exemptions to Financial Procedure Rules and / or the Procurement and Contract Procedure Rules are recorded, signed by the relevant Officer and countersigned by the Chief Finance Officer. All exemptions must be monitored and reported as appropriate;

(l) consult, and take advice from, the Monitoring Officer and the Officer with responsibility for Procurement where contracts to work for organisations other than the Council are contemplated;

(m) ensure that Best Value and Partnership Arrangements comply with all applicable procurement legislation and follow the principles set out in the Procurement and Contract Procedure Rules. The advice of the Monitoring Officer, and Officer with responsibility for Procurement must be taken.

(n) be responsible for all financial elements of the corporate governance of the Council;

(o) in compliance with section 114 of the Local Government Finance Act 1998 and in accordance with the Protocol for Statutory Chief Officers with responsibility for Governance (see paragraph 9.10.11), report to the full Council, Executive and external auditor if:

(i) the Council 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;

(ii) 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;

(iii) is about to enter an item of account, the entry of which is unlawful;

(p) 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;

(q) set and monitor financial 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;

(r) be responsible for ensuring that a revenue budget is prepared on an annual basis for pre-scrutiny and consideration by the Executive, before full submission to the Council. Each Chief Officer shall prepare annually a forward revenue budget in accordance with the criteria specified by the Chief Finance Officer;

(s) provide advice to all Members and Officers on:

(i) the scope of powers and authority to take decisions;

(ii) maladministration;

(iii) probity and financial impropriety;

(iv) Budget and Policy Framework issues;

10.25.8 The Council has delegated to the Chief Finance Officer the following Non-Executive functions:

(a) responsibility for issuing advice and guidance to underpin the Financial Procedure Rules that Members, Officers and others acting on behalf of the Council are required to follow;

(b) advising on effective systems of internal control, ensuring compliance with all applicable statutes and regulations, and other relevant statements of best practice;

(c) provision of advice on risk, which every Chief Officer and Budget Holder has a responsibility to support;

(d) provide financial information to the media, members of the public and the community

(e) the day to day management and administration of Teesside Pension Fund matters including ensuring arrangements for investments of assets and administration of contributions and benefits, excluding matters delegated to the Teesside Pension Fund Committee.

10.25.9 The Mayor has delegated to the Chief Finance Officer the following Executive Functions:

(a) responsibility for all Executive decisions on borrowing, investment or financing, acting in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities;

(b) reporting to the Executive not less than twice in each financial year on the activities of the treasury management operation and on the exercise of the delegated treasury management powers;

(c) 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;

Corporate Director of Legal and Corporate Services

10.25.10 The Corporate Director of Legal and Corporate Services is designated as the Monitoring Officer and is therefore responsible for discharging the functions set out at Section 9 of the constitution and below.

10.25.11 The Monitoring Officer will:

(a) in respect of the Constitution[143]:

(i) maintain and publish the Constitution as set out in paragraph 2.8;

(ii) monitor and review the operation of the Constitution to ensure it's aims and principles are given full effect;

(iii) be aware of the strengths and weaknesses of the Constitution by:

a. observing meetings;

b. undertaking audits of decisions;

c. recording and analysing issues raised by Members, Officers, members of the public and stakeholders;

d. comparing practices with other comparable authorities or national examples of best practice;

and make recommendations for ways in which it could be amended;

(b) in respect of governance issues[144]:

(i) give notice of meetings in accordance with the Access to Information Procedure Rules (see Section 14);

(ii) be responsible for the system of record keeping in relation to all decisions made by Full Council;

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143 Section 37 of the Local Government Act 2000

144 Section 5 of the Local Government and Housing Act 1989

(iii) 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;

(iv) report any actual or potential breach 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;

(v) in accordance with the Protocol for Statutory Chief Officers with responsibility for Governance (see paragraph 9.10.11), after consulting with the Head of Paid Service and the Chief Finance Officer, report to Full Council and the Executive on any proposal, decision or omission which has or may give rise to unlawfulness or maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;

(vi) conduct such investigations as it appears to the Monitoring Officer are necessary to ensure appropriate corporate governance;

(vii) provide advice to Officers and Members, on:

a. the scope of powers and authority to take decisions;

b. probity and maladministration;

c. financial impropriety;

d. Budget and Policy Framework issues;

(viii) refer to Full Council any proposed variations to approved budgets, plans and strategies which form part of the Policy Framework;

(ix) promote and maintain high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;

(c) in respect of Member Standards[145]:

(i) provide support to the Standards Committee;

(ii) conduct investigations into complaints against Members and Co-Opted Members which, after consultation with an Independent Person appointed for such purposes, are believed

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145 Part III of the Local Government Act 2000, Chapter 7 of Part 1 of the Localism Act 2011

to have breached the Members' Code of Conduct and make reports or recommendations in respect of them to the Standards Committee;

(iii) prepare a report to Full Council with respect to any proposal, decision or omission by the Council, committee, or Officer that could give rise to unlawfulness, maladministration or injustice. There is a duty to consult with the Head of Paid Services and the Chief Finance Officer in accordance with the Protocol for Statutory Chief Officers responsible for Governance at paragraph 9.10.11 and then arrange for a copy of it to be sent to each Member.

(d) receive written notice from the Mayor on amendments to the Scheme of Delegations of Executive Functions;

10.25.12 The Council has delegated to the Corporate Director of Legal and Corporate Services the following Non-Executive functions:

(a) being the Council's Chief Legal Officer;

(b) responsibility for corporate complaints, Ombudsman cases, and whistleblowing;

(c) authorising the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, subject to consultation with the responsible Chief Officer and the statutory chief officers responsible for governance;

(d) authorising officers of the Council to appear before Magistrates' Courts or District Judges;

(e) determining whether to apply the Council's seal to a document, including attesting the fixing of the seal and authorising others to do so.

10.25.13 The Mayor has not delegated any Executive Functions to the Corporate Director of Legal and Corporate Services.

Corporate Director of Children's Services

10.25.14 The Council has designated the Corporate Director of Children's Services as the responsible officer for Children's Services, who is therefore responsible for discharging the functions set out at Section 9 of the constitution and below.

10.25.15 The Council has delegated the following Non-Executive functions to the Chief Officer responsible for Children's Services:

(a) To license the employment of children.

10.25.16 The Mayor has delegated to the Chief Officer responsible for Children's Services the following Executive Functions:

(a) Education and training of Children and Young People including:

(i) School improvement;

(ii) School places and travel to and from school;

(iii) Oversight of the Dedicated Schools Grant;

(iv) Special Educational Needs and Disability (SEND);

(v) Skills and entrepreneurship in schools;

(vi) Youth engagement and youth services;

(vii) Employment Opportunities.

(b) Early Years Provision

(c) Children's social care services including:

(i) Safeguarding and Child Protection;

(ii) Adoption and fostering;

(iii) Youth Offending Services;

(iv) Corporate Parenting.

10.25.17 The Full Council has delegated the following Local Choice Functions to the Director of Children's Services:

(a) To make arrangements for appeals against exclusion of pupils from maintained Schools;

(b) To make arrangements for appeals regarding school admissions;

(c) To make arrangements for appeals by governing bodies.

Corporate Director of Adult Social Care and Health

10.25.18 The Corporate Director of Adult Social Care and Health is designated as the responsible officer for Adult Social Services and is therefore responsible for discharging the functions set out at Section 9 of the constitution and below.

10.25.19 The Council has not delegated to the Chief Officer responsible for Adult Social Care and Health Integration any Non-Executive functions:

10.25.20 The Mayor has delegated to the Chief Officer responsible for Adult Social Care & Health Integration the following Executive Functions:

(a) Services to support adults including:

(i) Integration and personalisation of health and social care services across the city for the benefit and health and well-being of Middlesbrough citizens;

(ii) Information, advice and advocacy;

(iii) Prevention and Recovery: to take steps to prevent, reduce or delay the need for care and support for all people including:

(iv) Preventative Services: Provision or arrangement of community and home based services to adults with less intensive needs; and

(v) Re-ablement Services: Provision or arrangement of early intervention time-limited services to meet the immediate requirements of adults with short-term social care needs.

(b) Safeguarding including:

(i) Co-ordination of multiagency arrangements to ensure that resources are deployed in safeguarding vulnerable adults;

(ii) Delivery of safeguarding training; and

(iii) To promote and enable identification of and appropriate action for vulnerable adults at risk of abuse or neglect;

(iv) Exercising the Council's powers and duties to people who lack the mental capacity to make some decisions themselves;

(c) Assessment and eligibility;

(d) Community well-being and joint working with the NHS;

(e) Charging and financial assessments including undertaking financial assessments and the provision of deferred payments;

Joint Director of Public Health

10.25.21 The Joint Director of Public Health is designated as the responsible officer for Public Health and is therefore responsible for discharging the statutory functions set out at Section 9 of the Constitution and below:

(a) Accountable for appropriate use of the ring-fenced public health grant and ensuring delivery of the mandated public health services;

(b) Responsible for:

(i) Protecting and improving the health of the local population;

(ii) Ensuring arrangements for planning for, and responding to, emergencies;

(iii) Ensuring co-operation with police, probation and prison services in relation to violent and sexual offenders;

(iv) Providing public health response as a responsible authority to Licensing applications;

(v) Writing an annual Director of Public Health report;

(vi) Being an active member of the Health and Wellbeing Board (i.e. Live Well South Tees Board);

(vii) authorising Patient Group Directions on behalf of the Local Authority.

Corporate Director of Regeneration and Housing

10.25.22 The Corporate Director of Regeneration and Housing is responsible for discharging the functions set out at Section 9 of the constitution and below.

10.25.23 The Council has delegated to the Corporate Director of Regeneration and Housing the following Non-Executive functions:

(a) Planning:

(i) Planning Applications and Appeals;

(ii) Mineral and Waste Applications,

(iii) Neighbourhood Planning;

(iv) Conservation;

(v) Strategic Spatial and Planning Policy

(vi) Town and village greens;

(b) Assets of community value;

(c) In consultation with the Chief Finance Officer, the Executive Member(s) with responsibility for Investments, Assets and Finance, to approve the acquisition of property up to the value of £500,000;

10.25.24 The Mayor has delegated to the Corporate Director of Regeneration and Housing the following Executive Functions:

(a) Digital, Marketing and Communications

(b) Growth and Investment – including:

(i) Economic Development;

(ii) Economic Regeneration;

(iii) Employability;

(iv) External Funding and Programmes;

(v) Regeneration Policy and Programmes;

(vi) Promoting enterprise.

(c) Property – including:

(i) Assets, Estates and Property Management;

(ii) Building Facilities and Management;

(iii) Management of commercial property portfolio;

(iv) Project Design, Development and Delivery.

(d) Culture – including

(i) Sport and Leisure;

(ii) Archives and Records;

(iii) Arts, culture, libraries and museums;

(iv) Tourism, Theatre and Performing Arts;

(e) Housing – including:

(i) Housing Renewal and Improvement;

(ii) Housing Management, Strategy and Policy;

(iii) Selective Licensing (Housing);

(iv) Prevention & Resolution of Homelessness;

(f) Building Control – including Dangerous Structures

(g) Construction Programme and Project Management including:

(i) Programme and Project Management;

(ii) Quantity Surveying and Accounts;

(iii) Construction and Design Management (CDM);

(h) Health and Safety (Internal)

Corporate Director of Environment, Communities and Culture

10.25.25 The Corporate Director of Environment, Communities and Culture is responsible for discharging the functions set out at Section 9 of the constitution and below.

10.25.26 The Council has delegated to the Corporate Director of Environment, Communities and Culture the following Non-Executive functions:

(a) receive applications for assistance with Ordnance Survey mapping.

10.25.27 The Mayor has delegated to the Corporate Director of Environment, Communities and Culture the following Executive Functions:

(a) Transport – including:

  (i) Integrated Passenger Transport Unit;

  (ii) Local Transport Planning;

  (iii) Strategic Transport and Traffic Management;

  (iv) Parking Policy, Control and Enforcement

  (v) Traffic Manager;

(b) Environment – including:

  (i) clean air;

  (ii) cleaner neighbourhoods - dog fouling, littering;

  (iii) water and sewage;

  (iv) allotments;

  (v) antisocial behaviour;

(c) Waste – including:

  (i) kerbside collection;

  (ii) landfill and recycling;

  (iii) incineration;

(d) Regulatory services – including:

  (i) licensing;

  (ii) trading standards;

  (iii) animals;

  (iv) markets and fairs;

  (v) consumer protection

  (vi) public protection

(e) CCTV – including Internal use, homecare and CCTV (public space cameras);

(f) Prevention of crime and reduction of disorder;

(g) Unlawful encampments;

10.26 General delegations

10.26.1 All Chief Officers have delegated authority to exercise any of the Council's general functions and powers so far as it is necessary or conducive to do so in order to provide any service for which they have from time to time been given management responsibility.

10.26.2 Subject to compliance with this Constitution[146], in particular Section 13 (Decision Making) and paragraph 10.23, appropriately authorised officers[147] can also conduct the day to day management and administration of the Council in accordance with Council policies and procedures, including the following functions:

Finance

(a) within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial Procedure Rules and the Procurement and Contract Procedure Rules;

(b) exercise virement in accordance with the Financial Procedure Rules;

(c) in consultation, where appropriate, with the relevant Executive Member, introduce, set and vary as necessary fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval;

(d) incur, vary and withdraw expenditure, including the making of contributions to outside bodies whose objects are complementary to the work of the Council;

(e) extend, vary, renegotiate, novate, assign or terminate contracts, agreements, deeds or other transactions in accordance with the Procurement and Contract Procedure Rules and the Financial Procedure Rules;

(f) bid for grants or other financial assistance, or make grants or give financial or other assistance to organisations.

Staffing

(g) Within budgetary provision, engage, suspend, dismiss and deploy staff up to and including Deputy Chief Officer level;

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146 The golden thread of delegation must be evidenced and unbroken, with decisions made in accordance with the decision making principles and appropriately recorded.

147 That is authorised in a Scheme of Sub-Delegation in accordance with paragraph 10.23.6.

(h) take disciplinary action against staff up to but excluding appeals against dismissal;

(i) apply conditions of service in accordance with the Council's policies;

(j) permanently regrade posts up to and including Deputy Chief Officer level, with the approval of the Chief Finance Officer;

(k) make establishment changes up to and including Deputy Chief Officer level;

(l) deal with applications for regrading up to and including final appeal,

Regulatory

(m) serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences in the exercise of any discretionary power or in complying with any duty of the Council;

(n) in respect of approvals, licences, permission or registrations which come within the terms of their delegated authority, to:

  (i) impose conditions, limitations or restrictions;

  (ii) determine any terms to which they are subject;

  (iii) determine whether and how to enforce any failure to comply;

  (iv) amend, modify, vary or revoke; and

  (v) determine whether a charge should be made or the amount of such a charge.

(o) the preparation, monitoring, review and enforcement of byelaws relevant to their service area;

(p) determine whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject;

(q) act on behalf of the Council in respect of specified legislation and:

  (i) enter premises;

  (ii) apply to court for entry warrants;

  (iii) exercise statutory powers;

  (iv) act as disclosure officer;

(r) functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that these functions are discharged otherwise than in the Council's capacity as employer;

Other

(s) provide services to other local authorities and organisations.

(t) respond to consultations from Government departments and other public bodies;

(u) exercise the Council's rights in any company or other form of corporate body of which the Council is a shareholder or member, unless alternative arrangements are specified in the relevant body's articles of association, other governing instrument, any shareholders' agreement or any specified delegations in relation to particular bodies;

(v) exercise all functions that may from time to time fall within the scope of their professional and operational responsibility

10.27 Statutory Officer delegations

10.27.1 The Statutory Officers who are not Chief Officers (see paragraph 9.8) are as set out at Table 6. They are responsible for discharging the following functions:

(a) **Scrutiny Officer:**

(i) promoting the role of the authority's overview and scrutiny committees;

(ii) providing support to the Council's overview and scrutiny committees and overview and scrutiny committee members;

(iii) providing support and guidance in relation to overview and scrutiny functions to the Mayor, the Executive, Councillors and Officers;

(iv) reporting to Full Council as to how the Council has carried out is overview and scrutiny function on an annual basis.

(b) **Data Protection Officer:**

(i) informing and advising the Council and its employees about their obligations to comply with the General Data Protection Regulations and other data protection laws;

(ii) monitoring compliance with data protection laws, including:

a. managing internal data protection activities;

b. advising on data protection impact assessments;

c. training staff

d. conducting internal audits.

(iii) being the first point of contact for supervisory authorities and for individuals whose data is processed (employees, residents etc).

(c) **Local Authority Designated Officer:**

(i) managing allegations that adults who work with children have:

a. behaved in a way that has harmed, or may have harmed a child;

b. possibly committed a criminal offence against or related to a child;

c. behaved towards a child or children in a way that indicates they may pose a risk of harm to children;

d. Behaved in a way which raises concerns as to their suitability to work with children.

(ii) providing advice, information and guidance to employers and voluntary organisations around allegations and concerns regarding paid and unpaid workers;

(iii) monitoring the progress of cases to ensure they are dealt with consistently, fairly, thoroughly and as quickly as possible;

(iv) liaising with relevant professionals to discharge these functions.

10.28 Proper Officers

10.28.1 A Proper Officer is an Officer appointed by the Council to carry out certain administrative functions as required by statute or good practice, including, for example, receiving or giving notices, certifying or authenticating documents, keeping registers, and issuing summonses for meetings.

10.28.2 Unless otherwise appointed by Full Council or specified in this constitution, each Chief Officer is appointed as the Proper Officer for matters within their remit. The Chief Executive is appointed as the Proper Officer for the purposes of any other matter.

10.28.3 Proper Officers may appoint deputies to discharge the Proper Officer functions provided that any such delegation is confirmed within a Scheme of Sub-delegation (see paragraph 10.24.5).

10.28.4 Table 10 sets out the functions for which the Council is required to designate a responsible officer and confirms the identity of the Proper Officer. The name of any deputy, appointed to act in the absence or unavailability of the Proper Officer, appears in brackets.

10.28.5 Further, references to officer titles[148] in any legislation passed before or during the 1971 - 72 session of Parliament (other than the Local Government Act 1972), or in any instrument made before 26 October 1972 are to be construed as a reference to the relevant Proper Officer of the Council.

Table 10: Proper Officer Functions

Legislation	Function	Proper Officer
S.1 Ordnance Survey May Act 1841	assist with Ordnance Survey mapping.	Chief Officer responsible for Planning
S. 85 Public Health Act 1936	applying to Magistrates to compel a person to attend a cleansing station	Joint Director of Public Health

[148] Including “Clerk to the Council”, “Borough Treasurer”, “Treasurer”, “Borough Engineer”, “Borough Surveyor”, “Surveyor”, “Head of Engineering”, Sanitary Inspector”, “Public Health Officer” etc

Marriages Act 1949	approve venues for marriage and civil partnership ceremonies	Chief Officer responsible for Licensing
S. 13 Births and Deaths Registration Act 1953	all references to registrar or superintendent registrar	Monitoring Officer / Senior Registrar?
Registration Service Act 1953	all references to the Proper Officer / Registration Officer	
Commons Registration Act 1965	all references to the proper / registration officer	Monitoring Officer
S. 6 Local Authority Social Services Act 1970	Director of Adult Social Services	Chief Officer with responsibility for Adult Social Care
S. 7. Local Authority Social Services Act 1970	appointed under statutory guidance "Working Together to Safeguard Children 2006" as the Local Authority Designated Officer (LADO) responsible for managing allegations against persons who work with children .	Chief Officer with responsibility for Children Services
S. 13(3) LGA 1972	act as the Parish Trustee with the Chair of the parish meeting	Monitoring Officer
S. 83(1) – (4) LGA[149] 1972	receive declarations of acceptance of office	Monitoring Officer
S. 84 LGA 1972	receive written notice of resignation	Monitoring Officer

[149] 'LGA' throughout this table stands for Local Government Act

S. 88(2) LGA 1972	convene a meeting to fill a vacancy in the office of Chair of the Council	Monitoring Officer
S. 89(1)(b) LGA 1972	receive notice in writing of a casual vacancy in the office of Councillor from two local government electors	Monitoring Officer
S.100 LGA 1972	regarding the access to information provisions	Monitoring Officer
S.115 LGA 1972	receive monies due from officers of the Council	Chief Finance Officer (Head of Paid Service)
S. 146(1) LGA 1972	produce a statutory declaration specifying securities and a certificate verifying a change of authority	Chief Finance Officer
S. 151 LGA 1972	responsible for the proper administration of the Council's financial affairs	Chief Finance Officer
S. 210(6) and (7)	exercise any power vested in a predecessor council in respect of a charity	Monitoring Officer
S. 225(1) LGA 1972	receive and retain documents deposited with the Council, and make notes or endorsements and give acknowledgments or receipts in respect of the document	Monitoring Officer
S. 229(4) and (5) LGA 1972	certify that a document is a photographic copy of a document in the custody of the Council or destroyed while in the custody of the Council	Monitoring Officer

S. 234 LGA 1972	signing notices, orders and other documents;	The Chief Officer or other officer responsible for the function which is the subject of the document. If there is no such officer, then the Head of Paid Service
S. 236(9) LGA 1972	sending certified copies of byelaws to appropriate bodies	Monitoring Officer
S. 238 LGA 1972	certifying byelaws	Monitoring Officer
S. 248(2) LGA 1972	keeping the roll of persons admitted to the freedom of the Borough	Monitoring Officer
Part 1, para 4(1A) of Sch.12 of the LGA 1972	issuing a summons to Council meetings and receiving notice from a Member of the address to which summons should be sent	Monitoring Officer
Para 25(7) of Sch.14 of the LGA 1972	certifying copies of resolutions passed under the Public Health Acts 1875 to 1925 as true copies for production in legal proceedings.	Monitoring Officer
S. 30(5) of the LGA 1974[150]	arranging publication in newspapers of notice of a Local Commissioner's report on investigation of a complaint.	Monitoring Officer

[150] Local Government Act 1974

S. 41 LG(MP)A 1976[151]	certifying copies of resolutions, minutes and other documents.	Monitoring Officer
S. 59(1) Highways Act 1980	issuing certificates in respect of expenses due to extraordinary traffic	Chief Officer responsible for Highways
S. 211 Highways Act 1980	making final appointments in respect of private street works	Chief Officer responsible for Highways
S. 321 Highways Act 1980	authentication of documents	Monitoring Officer
Representation of the People Act 1983	- electoral Registration Officer - receipt of declarations of election expenses declarations of acceptance of office	Monitoring Officer
S. 28 Representation of the People Act 1983	Acting Returning Officer (Parliamentary elections)	Monitoring Officer
S. 35 Representation of the People Act 1983	Returning Officer (local government elections)	Monitoring Officer
S. 78(8) Building Act 1984	The officer authorised to take emergency action in respect of dangerous structures	Chief Officer with responsibility for Building Control
S. 48 Public Health (Control of Disease) Act 1984	removal of body to mortuary or for immediate burial	Chief Officer with responsibility for Public Health

[151] Local Government (Miscellaneous Provisions) Act 1976

S. 59 Public Health (Control of Disease) Act 1984	authentication of documents	Chief Officer with responsibility for Public Health
S. 60 Public Health (Control of Disease) Act 1984	service of notices and other documents	Chief Officer with responsibility for Public Health
S.72 Weights and Measures Act 1985	appointment of inspectors in relation to weights and measures	Chief Officer with responsibility for Public Protection
S. 114 Local Government and Finance Act 1988	making a financial report to the Council	Chief Finance Officer
Children Act 1989	deal with representations made	Deputy Chief Officer responsible for complaints
S. 4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
S.5 Local Government and Housing Act 1989	- Monitoring Officer - report on maladministration or injustice - report on contraventions of enactments or rule of law - report on resources	Corporate Director of Legal and Corporate Services
S. 149 EPA[152] 1990		
S. 49 Food Safety Act 1990	form and authentication of documents	Chief Officer responsible for Public Protection
Local Government (Committees &	in relation to political groups	Monitoring Officer

[152] Environmental Protection Act 1990

Political Groups Regulations 1990		
S. 4 Local Authorities (Contracts) Regulations 1997	copies of all certificates in relation to contracts to be provided to the Auditor and Monitoring Officer	Monitoring Officer and Auditor
Part III, LGA 2000	conduct of local government members and employees	Monitoring Officer
Freedom of Information Act 2000	Provision of information	Data Protection Officer
Local Authorities (Standing Orders) (England) Regulations 2001	all references within the regulations to the Proper Officer	Monitoring Officer
R. 16 of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001	responsible for statements of special educational needs	Chief Officer responsible for Education
R. 13 of the Special Educational Needs Tribunal Regulations 2001	Responsible for the Local Education Authority Case Statement.	Chief Officer responsible for Education
Local Authority Elected Mayor's and Mayor's Assistants Regulations 2002	all references within the regulations to the Proper Officer	Monitoring Officer
Local Authority Circular: LAC (2002) 2	officer acting as the Caldicott Guardian	Chief Officer responsible for Adult Services Chief Officer responsible for Children Services

Anti-social Behaviour Act 2003		Chief Officer responsible for Community Safety
S. 325 Criminal Justice Act 2003	officer co-operating with the police, probation service and prison service in accordance with the local authority's duties under Section 325 of the Criminal Justice Act 2003;	Chief Officer responsible for Community Safety
Licensing Act 2003	Officer responsible for making representations in relation to public health	Chief Officer responsible for Public Protection
S. 18 Children Act 2004	Director of Children Services	Chief Officer with responsibility for Children's Services
S. 3 Housing Act 2004	Assessing housing conditions	Chief Officer responsible for Public Protection
S. 17(2) Traffic Management Act 2004	the officer nominated as the Traffic Manager, responsible for ensuring the Council discharges its network management duty	Chief Officer responsible for Highways
Commons Registration Act 2006		
Proceeds of Crime Act 2006	designated Money Laundering Reporting Officer	Deputy Chief Officer responsible for internal Audit
Coroners & Justice Act 2009	appointment of Coroner	
S.29 Localism Act 2011	establish, maintain and publish registers of Members' interests for the Council and any Parish or	Monitoring Officer

	Town Councils in the Borough	
S. 33 Localism Act 2011	receive requests for, and administer, dispensations	Monitoring Officer
Local Authorities (Referendums) (Petitions)(England) Regulations 2011	all references within the regulations to the Proper Officer	Monitoring Officer
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	all references within the regulations to the Proper Officer	Monitoring Officer
Human Medicines Regulations 2012	authorising Patient Group Directions on behalf of the Local Authority.	Chief Officer responsible for Public Health
S. 26 Counter Terrorism and Security Act 2015	the lead officer responsible for discharging the Council's statutory responsibility to have due regard to, and safeguard those at risk of, radicalisation;	Chief Officer responsible for Community Safety
S. 36 Counter Terrorism and Security Act 2015	Officer who will: - chair the Channel Panel - discharge the Council's obligations in a multi-agency safeguarding approach in partnership with Cleveland Police - report to governance bodies on the administration of Channel locally	Chief Officer responsible for Community Safety

	- support the Prevent lead to discharge the Prevent duty	
S. 69 Data Protection Act 2018	Designated Data Protection Officer	Data Protection Officer
Fire Safety Act 2021	The responsible person for fire safety	Chief Officer responsible for Assets
Building Safety Act 2022	The accountable person for building safety	Chief Officer responsible for Assets

11 Alternative Service Delivery Vehicles

This section explains when and how the Council may or must enter into statutory joint arrangements or operate through an Alternative Service Delivery Vehicle. It also gives details of joint arrangements that the Council has entered into with other local authorities.

11.1 What are joint arrangements?

11.1.1 There are circumstances where the Council and or the Executive are entitled, subject to restrictions and limitations, to make joint arrangements for the purpose of carrying out certain functions jointly with another local authority. These arrangements can be entered into under specific legislative provision or in accordance with the general power of competence[153].

11.1.2 The Council is also required to participate in joint arrangements in some matters[154]. Joint arrangements can be:

(a) Joint Committees

(b) Partnerships

(c) Statutory Bodies

(d) Contractual

11.2 When can joint arrangements be made?

11.2.1 Full Council may establish joint arrangements with one or more local authorities and / or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or advise the Council. Such arrangements may involve direct delegation of functions or the appointment of a joint committee[155] with the other local authorities.

11.2.2 The Executive (unless the Mayor directs otherwise) may establish joint arrangements with one or more local authorities to exercise functions which

153 Section 1 Localism Act 2011

154 For example the Police Reform and Social Responsibility Act 2011 requires the local authorities for the Cleveland Police Area to establish a Police and Crime Panel for the police area.

155 Section 101 and 102 of the Local Government Act 1972

are executive functions[156]. Such arrangements may be direct or involve the appointment of joint committees with these other local authorities.

11.2.3 Details of any delegations to joint committees are found in Section 10 – Responsibility for Functions.

11.3 How do joint arrangements operate?

Where a joint committee is to be established with another authority:

(a) The number of Members to be appointed, their term of office, and the area (if restricted) within which a joint arrangement with other local authorities is to exercise its authority shall be fixed, and the members appointed to that joint arrangement shall be made by:

  (i) Full Council where the joint arrangement is to discharge Non-executive functions;

  (ii) Full Council with the agreement of the Executive where the joint arrangement is to discharge Executive and Non-executive Functions;

  (iii) The Executive where the joint arrangement is to discharge Executive Functions.

(b) Where appointments to a joint committee are made by the Council under (a)(i) and (a)(ii) above, and those appointments are made from Members of the Council, the appointments must reflect the political composition of the local authority as a whole.

(c) Where appointments to a joint arrangement are made by the Council under (a)(ii) above:

  (i) if there is only one member of the joint arrangement, that person may be, but need not be, a member of the Executive; and

  (ii) where there are two or more members of the joint arrangement, at least one of those members must be a member of the Executive.

(d) Where appointments to a joint arrangement are made by the Executive under (a)(iii) above, those appointments need not reflect the political composition of the local authority as a whole, and may be only Executive Members except:

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156 Section 9EB of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

(i) where the joint arrangement has functions for only part of the area of the authority; and

(ii) that area is smaller than two-fifths of the authority by area or population

the Executive may appoint to the joint arrangement any Councillor who is a Member for a Ward which is wholly or partly contained within the area, and political balance requirements do not apply to such appointments.

11.4 Do the Council's Access to Information Procedures apply to joint arrangements?

11.4.1 If the joint arrangement is a joint committee with non-executive Members of any participating authority, the non-executive access to information provisions[157] will apply.

11.4.2 If all the members of a joint committee are executive members in each of the participating authorities, the access to information regime for the Executive shall be applied.

11.4.3 Where access to information rules apply to a joint arrangement, it will be the rules adopted by the lead or host authority that apply unless otherwise explicitly stated.

11.5 Can responsibility for functions be delegated to and from another local authority?

11.5.1 The Council may delegate Non-executive Functions to another local authority or, in certain circumstances, the Executive of another local authority.

11.5.2 The Executive may delegate Executive Functions to another local authority or, in certain circumstances, the Executive of another local authority.

11.5.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to a meeting of Full Council.

11.5.4 Further information in respect of delegated functions for joint arrangements can be found in Section 10.

11.6 Can the Council contract out its functions?

The Full Council (for functions which are not Executive Functions) and the Executive (for Executive Functions) may contract out to another body or

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[157] Part VA of the Local Government Act 1972

organisation performance of functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contacting arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

11.7 Can decisions be made in partnership with other organisations?

11.7.1 Delegation to and from other local bodies and partnership working[158] will allow decisions to be made in partnership with central government and government bodies, such as a combined authority or with the National Health Service as part of the integrated care system.

11.7.2 The Council will maintain and regularly review a register of partnerships in which the Council participates. Reviews will assess and evaluate the governance and effectiveness of each partnership[159].

11.8 What are Alternative Service Delivery Models?

11.8.1 The Council has various statutory powers to enable it to establish alternative service delivery vehicles to deliver projects or services.

11.8.2 The Council must effectively manage the relationship between the Council and the alternative service delivery vehicle to ensure the vehicle has the freedom to manage its activities while achieving the Council's ambitions and delivering value for money in accordance with appropriate corporate governance arrangements. The Council has in place a policy which sets out how any company will be governed.

11.9 What are the governance arrangements for the creation of alternative service delivery vehicles?

11.9.1 Any decisions or recommendations in relation to the creation, review or cessation of an alternative service delivery vehicle ('ASDV'), such as company, trust, charity or other legal entity, shall be formed with clear reference to the principles outlined within the Partly and Wholly Owned Council Companies policy.

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158 Under Section 75 of the National Health Service Act 2006, Section 10 of the Children's Act 2004 and the provisions of the Health and Social Care Act 2012, local authorities, health bodies and others have powers to delegate the exercise of certain functions to each other and to co-operate in the exercise of their functions.

159 https://www.middlesbrough.gov.uk/open-data-and-foi/council-information-and-data/

11.9.2 The Chief Finance Officer and Monitoring Officer should be contacted for assistance at an early stage to discuss proposals for the formation of a new ASDV.

11.9.3 The Council's governance arrangements will seek to ensure that any ASDV established that it either partly or wholly owns or bears responsibility for:

(a) is only established when a compelling business case, compliant with the business case process set out in the Council's Project and Programme Management Framework, is made out;

(b) has appropriate controls and freedoms, with sufficient control for the Council, to ensure that:

(i) its investment is protected;

(ii) appropriate returns on investment can be obtained; and

(iii) the activities of the ASDV are aligned with the values and strategic objectives of the Council.

(c) separates the roles and responsibilities of the Council and the ASDV, with roles involved in the oversight and operation of the ASDV occupied by those with the skills and experience to deliver them

(d) ensures regular assurance is provided and that the ASDV continues to be relevant and required.

11.9.4 All formal ASDV agreements will only be entered into where a robust business case has been prepared and due diligence undertaken to ensure the financial, legal, taxation and operational implications of the proposed company are understood and the assumptions for its creation are robust. The decision to establish an ASDV will be taken by the Executive, unless it relates to a matter reserved to another body within the Council.

11.10 How can Information on the ASDV be obtained?

11.10.1 Reserved matters which require Shareholder or Owner consent must be defined in the governing documents of each ASDV. The process for approving and recording decisions relating to reserved matters will be defined within the relevant governance documents. Such decisions are Executive Decisions and are subject to the Council's Access to information Procedure Rules.

11.10.2 The following documents must be in place prior to a decision being taken to establish an ASDV:

(a) A business case;

(b) A business plan;

(c) Proposed articles of association;

(d) A shareholder, member or governance agreement that covers issues such as expected standards in relation to corporate governance and including the expected risk appetite of the company and how it will be managed

(e) Commissioner clarity – where the ASDV is contracted to provide services to the Council (the shareholder), responsibility for the client and contractor roles within the Council shall be split;

(f) Agreements or documents setting out:

(i) what services the Council will provide;

(ii) the provision or transfer of assets and liabilities to the ASDV;

(iii) the policy on secondments and / or employment by the ASDV;

(iv) the conflicts of interest policy;

(v) how internal Council policy documents apply to the company, such as Standing Orders and financial and contract regulations

(g) Additional agreements as required, including data protection, records management and information-sharing protocols;

(h) Documents concerning funding flows – loans and advance payments

(i) A clear exit strategy

(j) Documentation setting out any reserved matters that can only be done in agreement with the shareholders.

11.11 How will the Council scrutinise performance of an ASDV?

11.11.1 The Chief Officer with responsibility for the ASDV should ensure the Council's Overview and Scrutiny Board is able to exercise its power in relation to scrutiny of the operation of the ASDV as part of its work programme.

11.11.2 The Council's Annual Governance statement should include reference to how the Council monitors and evaluates the effectiveness of the governance arrangements.

11.12 What records will be kept?

Minutes must be taken in respect of meetings and records in respect of decisions, which will be retained in accordance with the information retention schedule.

11.13 How will the Council monitor performance of the ASDV?

Quarterly reports on the performance of the ASDV, finance reporting, delivery of the company against its objectives as set by the Council, and its risk management arrangements should be considered by the appointing Council body, usually Executive, on a quarterly basis. This report should set out progress against an annual business plan that clearly articulates planned activity to achieve the aims of the ASDV, address any internal or external audit recommendations.

11.14 Who bears what responsibilities in respect of ASDV?

11.14.1 The Executive is responsible for:

(a) approving the establishment and viability (including the business case) of all new ASDV;

(b) appointing and removing directors of ASDV in which the Council has an interest, having regard to the advice of the Chief Finance Officer given that, upon appointment, they have a statutory duty to the ASDV and must therefore act in accordance with applicable legislation;

(c) exercising the Council's rights in any ASDV of which the Council is a shareholder or member, unless alternative arrangements are specified in the ASDV governing instrument, any shareholders' agreement or any specified delegations in relation to particular bodies

(d) approving investments in ASDV in which the Council has a financial interest except where the investment is within criteria Cabinet has previously delegated to a Chief Officer;

(e) taking decisions as shareholder and sole trustee where appropriate;

(f) monitoring and receiving reports on the Council's ASDV;

(g) dissolution of ASDV created by the Council.

11.14.2 Chief Officers are responsible for:

(a) informing the Monitoring Officer and Chief Finance Officer of any new proposals, to ensure that legal and financial considerations are properly considered before any ASDV are considered;

(b) ensuring tight controls are in place for the financial management of loan and guarantor arrangements with Council owned ASDV. This includes ensuring the Chief Finance Officer is presented with robust business cases and signed loan agreements.

(c) The Chief Finance Officer is responsible for reviewing the ongoing viability of ASDV and regularly reporting the performance of their activities, with a view to ensuring that the Council's interests are being protected.

11.14.3 The Monitoring Officer is responsible for:

(a) appointing officers as proxies to attend and vote at meetings of any ASDV in which the Council has an interest;

(b) appointing a company secretary for any company for which the Council provides secretarial or administrative services;

(c) maintaining a record of the governance arrangements of each ASDV in which the Council participates, including requiring any officer involved with such a body to provide information as to the governance arrangements of it.

11.15 What Joint Arrangements does the Council have in place?

11.15.1 The details as to the membership and operation of the following joint arrangements are set out in Section 10 unless otherwise set out below.

11.15.2 The Non-Executive joint arrangements of the Council are:

(a) **Cleveland Fire and Rescue Authority;**

The statutory fire authority which the council is obliged to participate in for the purposes of providing fire and rescue services to the borough;

(b) **Durham Darlington Teesside Hambleton Richmondshire and Whitby Strategic Transformation Partnership Joint Overview & Scrutiny Committee**;

A statutory committee to review, scrutinise and provide formal consultation responses in relation to the Durham Darlington and Teesside Hambleton Richmondshire and Whitby sustainability and transformation plan and any associated proposals for substantial development and variation to health services associated with the transformation plan under powers for local authorities to scrutinise the NHS outlined in the NHS Act 2006, as amended by the Health and Social Care Act 2012, and related regulations.

(c) **South Tees Health Scrutiny Joint Committee**;

A joint committee with Redcar and Cleveland Borough Council to jointly undertake scrutiny of any issue or topic pertaining to the south of the Tees health economy.

(d) **Tees Valley Health Scrutiny Joint Committee**;

A joint committee with the Borough Councils of Darlington, Hartlepool Borough Council, Redcar and Cleveland and Stockton-on-Tees to improve the health of local people, tackle health inequalities, obtain

views on health services and plans and scrutinise access to, and outcomes of, health services.

(e) **Tees Valley Combined Authority – Independent Remuneration Panel**

Comprising three members[160], none of which is a member of the Combined Authority, or a committee or sub-committee of the Combined authority or is disqualified from being a member of the Combined Authority.

One Member with current or recent experience of the Independent Remuneration Panel (this can be an Elected Member or an Independent Member).

11.15.3 The executive joint arrangements of the Council are:

(a) **Healthwatch South Tees**

The council and Redcar and Cleveland Borough Council have commissioned Pioneering Care Partnership to deliver Healthwatch South Tees. The purposes of the collaboration are to:

(i) Support more people to have their say and provide clear information and advice to help them take control of their health and care.

(ii) Provide an effective, high-quality local service, building skills to achieve change together.

(iii) Work together with professionals, providing useful insight to improve the planning, delivery and support of health and social care.

(b) **Joint Archives Committee**

A joint committee of the Boroughs of Hartlepool, Stockton, Middlesbrough and Redcar & Cleveland to manage documentary and other historic material through a Joint Archive Service following the abolition of Cleveland County Council on 31 March 1996.

(c) **Emergency Planning Joint Committee**

A joint committee with the Borough Councils of Hartlepool, Redcar and Cleveland and Stockton on Tees which monitors the delivery of the Cleveland Emergency Planning Unit against its financial management, performance in line with its annual plan, and to hear feedback upon

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[160] Paragraph 4A of Schedule 1 to the Tees Valley Combined Authority Order 2016, as amended

incidents and lessons learned across the Cleveland area. Teesside Pension Board

(d) **Middlesbrough Development Company Limited**

This company is in the process of being closed down.

(e) **Tees Valley Combined Authority - Cabinet**

The Cabinet of the combined authority comprises the directly elected Tees Valley Mayor, a representative from the Local Enterprise Partnership and an executive member from each of the five constituent authorities.

(f) **Tees Valley Combined Authority - Education, Employment and Skills Partnership Board**

Responsible for agreeing all Tees Valley education, employment and skills policy, provisioning and partnership activities for the Combined Authority, including allocating key resources to achieve goals.

(g) **Tees Valley Combined Authority - Transport Committee**

Responsible for agreeing any transport related business plans delegated to it by the Cabinet and providing national representation on Transport Boards where required.

11.15.4 The joint arrangements of the Council which are both Executive and Non-executive in nature are:

(a) **Cleveland Police and Crime Panel**

A Joint Committee for the Boroughs of Hartlepool, Stockton, Middlesbrough and Redcar & Cleveland to fulfil the functions within the Police Reform and Social Responsibility Act 2011, including scrutiny of the elected Police and Crime Commissioner for the Cleveland Police Force Area.

(b) **Collaborative Procurement Sub-Committee**

A Sub-committee of the Association of North East Councils, comprising of 12 Elected Members from the 12 North East Local Authorities (one from each) established as a means of joint contracting for pooling purchase power, knowledge and expertise. The function is to deliver value for money, efficiencies and savings within the public sector including the development of the local economy wherever possible.

(c) **Live Well South Tees Board**

This joint committee, established in 2018, is the vehicle through which the Council discharges its statutory obligations in respect of health

and wellbeing[161]. It is the forum where political, clinical, professional and community leaders across the health and care system in the districts of Middlesbrough and Redcar and Cleveland work together to improve the health and wellbeing of their local population and reduce inequalities.

(d) **Tees Valley Combined Authority**

The authority formed of a representative from each of the five constituent local authorities, the directly elected Tees Valley Mayor and a representative from the Local Enterprise Panel.

(e) **Veritau Tees Valley Limited and Veritau Public Sector Limited**

The Council has 25% of the shares in Veritau Tees Valley Limited, which was created in 2019 in conjunction with Redcar and Cleveland Borough Council (25%) and York City Council (50%) for the provision of internal audit services. Veritau Tees Valley Limited is being replaced by Veritau Public Sector Limited[162].

11.16 Does the Council act as Lead Authority in any joint arrangements?

The Council acts as lead authority, under the collective name of Tees Valley Joint Services, in the provision of the following:

(a) Metrology laboratory (Tees Valley Measurement);

(b) Geotech Laboratory;

(c) Urban Traffic control;

(d) Tees Community Equipment Service;

11.17 Does the Council access any services where another authority is the Lead Authority?

The Council accesses the following services from other lead authorities as follows:

(a) Tees Valley Music Service – Stockton-on-Tees Borough Council

11.18 Does the Council have any charitable arrangements?

The Council is identified by the Charity Commission as being involved in the following charitable entities:

(a) Albert Park – 519234

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161 under the National Health Service Act 2006 (as amended)

162 Executive Minute reference 25/15

(b) Dorman Museum and Art Gallery Appeal Trust Fund – 1091360

(c) Middlesbrough Little Theatre Trust - 503828

(d) Home Independence Trust - 226433

(e) Hustler Playing Fields - 523381

(f) Middlesbrough Educational Trust Fund - 532293

(g) Pallister Park - 519235

(h) Robert Scott - 221291

(i) Stewart Park - 507075

(j) Tees Valley Music Trust - 1203580

(k) The Captain John Vivian Nancarrow Fund – 506937

(l) The Dorman Museum - 1078117

(m) The Lady Crosthwaite Bequest - 234932

(n) The Levick Trust -255056

(o) The Teesside Educational Endowment - 532294

(p) William Anderton Prize Fund - 509198

12Finance, 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 Council's financial affairs are managed as set out in the Financial Procedure Rules at paragraph 12.6.

12.2 How are contracts entered into by the Council?

Every contract made by the Council will comply with the Procurement and Contract Procedure Rules at paragraph 12.

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 may execute documents under seal, or by signing the relevant document, including by digital means. Whether the Council is required to execute a document under seal will depend on the nature of the document.

12.5.2 The Monitoring Officer is responsible for the Council's common seal, including its digital equivalent, 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, or its digital equivalent, should be affixed to a document. The Monitoring Officer, or another person authorised by them, will attest affixing of the common seal.

12.6 Financial Procedure Rules

This section of the constitution details the policies and procedures by which the Council operates. They are designed to enable the Council to deliver good financial governance so that its strategic aims and objectives can be achieved in a manner that complies with applicable legislation and guidance.

A: Introduction

12.6.1 **What are the Financial Procedure Rules?**

(a) The Chief Finance Officer has prepared, and will maintain, documents containing the rules to be followed in respect of financial and contract procedures. They are divided into the Financial Procedure Rules and the Procurement and Contract Procedure Rules.

(b) All financial transactions of the Council must be carried out in accordance with these Financial Procedure Rules.

12.6.2 **What are the Financial Procedure Rules?**

The Financial Procedure Rules are the financial policies and procedures of the Council. They should be read in conjunction with the Constitution as a whole, including in particular the Procurement and Contract Procedure Rules (see paragraph 12.7) and the Scheme of Delegation (See Section 10). They should also be read in the context of supporting process and procedure documents held outside the Constitution.

12.6.3 **To whom do the Financial Procedure Rules apply?**

(a) They apply to anyone who makes financial decisions on behalf of the Council (including Members, Officers and others, where relevant) should comply. It also sets out the consequences of any failure to comply with the Financial Procedure Rules.

(b) Every Member, Officer and any other person who acts on the Council's behalf has a duty to uphold the highest standards of financial governance and transparency for the Council.

(c) **Compliance with these Financial Procedure Rules is mandatory.** Those who are required to comply with these Financial Procedure Rules are required to maintain ongoing knowledge and awareness of their content to ensure compliance.

(d) All Council staff have a general responsibility to take reasonable action to ensure the security of the Council assets under their control, and for ensuring that the use of Council resources is legal, properly authorised, provides Value for Money and achieves Best Value.

(e) Officers (including those with line management responsibility) should address non-compliance with the Financial Procedure Rules swiftly and in the most appropriate way in the circumstances. Concerns can also be reported anonymously under the Council's Whistleblowing Policy and Procedure.

(f) It is the responsibility of Chief Officers to ensure that their staff are appropriately trained on the proper application of these Financial Procedure Rules to their role. Any such training must be approved by the Chief Finance Officer.

(g) Failure to comply with these Financial Procedure Rules may constitute a disciplinary matter that would be pursued under the Council's disciplinary policy.

(h) Unless the context provides otherwise, where reference is made in these Financial Procedure Rules to a Statutory Officer or a Chief Officer, that will include their deputies, representatives and / or other nominees.

12.6.4 **How are the Financial Procedure Rules organised?**

The Financial Procedure Rules are organised into the following sections:

A – Introduction

B – Roles and Responsibilities

C – Financial Planning and Budgetary Control

D – Financial Management

E – Financial Systems, Processes and Procedures

F – Employee and Personnel Matters

G – External Arrangements

H – Financial Limits

12.6.5 **How and when are these Financial Procedure Rules reviewed?**

(a) The Chief Finance Officer is responsible for keeping these Financial Procedure Rules under review and for submitting updates to them, as necessary, for approval by Full Council.

(b) The Chief Finance Officer may make technical amendments to these Financial Procedure Rules from time to time to ensure that they are consistent with legal requirements, changes in Council structure and personnel, and best practice.

12.6.6 **How does schools funding relate to these Financial Procedure Rules?**

These Financial Procedure Rules apply to all Council Services. However, local authorities are required to publish schemes for financing schools, setting out the financial relationship between them and the schools they maintain[163]. The Financial Procedure Rules of a school should not be contrary to these Financial Procedure Rules and any exceptions should be reported to the Chief Finance Officer.

12.6.7 **Where can I find more information about the Council's financial processes and procedures?**

The Council has a range of policy and procedural documentation that supports its financial governance arrangements, which can be accessed via its website.

B – Roles And Responsibilities

This section sets out the roles and responsibilities of Council bodies, Members and individual Officers. This section should be read in conjunction with the Constitution as a whole for full details of these roles and responsibilities.

Statutory Officers, in particular the Chief Finance Officer, and Chief Officers may nominate deputies to act on their behalf and / or delegate some of their responsibilities (in accordance with the Constitution). However, notwithstanding any such nomination or delegation, the relevant Officer remains ultimate responsible for the matters set out in these Financial Procedure Rules

12.6.8 **What are the roles and responsibilities in relation to the Financial Procedure Rules?**

(a) **Full Council** (see Section 4):

(i) Adopting:

a. the Council Constitution and Member Code of Conduct;

b. the Budget and Policy Framework

(ii) Approving and monitoring the Council's compliance with the overall framework of accountability and control;

(iii) Monitoring compliance with agreed Council policy and related decisions;

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[163] School Standards and Framework Act 1998

(iv) Approving procedures for recording and reporting decisions taken by or on behalf of the Council (including Key Decisions that have been delegated, and decisions made by Full Council and its Committees).

(b) **Executive** (see Section 6):

(i) Proposing the Budget and Policy Framework to Full Council

(ii) Discharging Executive Functions in accordance with the Budget and Policy Framework

(iii) Approving delegations of Executive decision-making to individual Executive Members, Officers and / or Joint Arrangements

(iv) Recommending protocols to ensure that individual Executive Members consult with relevant Officers (including in relation to legal and financial liabilities and risk management issues that may arise in relation to the decision) before making a decision within their delegated authority

(c) **Overview and Scrutiny Board / Scrutiny Panels** (see Section 7):

(i) Scrutiny of Executive decisions before or after implementation (including via the Call-in procedure);

(ii) Holding the Executive to account;

(iii) Recommending future policy options;

(iv) Reviewing the Council's general policy and service delivery;

(v) Reporting to Full Council on its findings.

(d) **Audit Committee** (see Section 10):

(vi) Fulfilling the Council's statutory audit function;

(vii) Delegated responsibility for monitoring and overseeing:

(viii) External Audit;

(ix) Internal Audit;

(x) risk management and business continuity;

(xi) corporate governance;

(xii) consideration of the Statement of Accounts, including the Annual Governance Statement;

(xiii) Reporting to Full Council on the above.

12.6.9 **What role do Statutory Officers have in financial matters?**

The roles and responsibilities of specific Officers in the Council is set out in detail at Section 9 of the Constitution.

12.6.10 **What are the obligations on Chief Officers in relation to financial matters?**

(a) Ensuring all members of staff within their Directorate are aware of the existence and content of these Financial Procedure Rules and any other internal regulatory document, and that they comply with them;

(b) Consulting the Chief Finance Officer before introducing, amending or discontinuing any arrangements, guidelines and procedures for the proper administration of the financial affairs of their Directorate;

(c) Ensuring that the Chief Finance Officer is engaged in the consideration and reporting of the financial implications of all formal decisions taken within the Council's governance arrangements and that any such financial implications are agreed with the Chief Finance Officer before a report is submitted to the Executive and / or Full Council;

(d) Consulting the Chief Finance Officer on any matter within their responsibility which is liable materially to affect the finances of the Council before any commitment is made and before submitting policy options or recommendations;

(e) Consulting with and obtaining the agreement of the Chief Finance Officer or their representative before submitting an application for a grant which would require the Council to commit its own resources in the current or subsequent years;

(f) With regard to any report or information for members of the public which relates to budget planning and / or monitoring or upon which policy decisions or consultation are to be based, consulting the Chief Finance Officer about any information to be included concerning the finances of the Council, its Services and activities, giving adequate time for the Chief Finance Officer to comment in advance of the agenda / deadline date;

(g) Bringing to the attention of the Chief Finance Officer and the Monitoring Officer any uncertainty as to the legality of proposed, or already incurred, expenditure as soon as reasonably practicable after such uncertainty becomes apparent;

(h) If a Chief Officer, having regard to the Chief Finance Officer's views, does not wish to amend their report, the Chief Finance Officer may require inclusion of their comments within the report before it is finalised;

(i) Reports shall only be submitted jointly by a Chief Officer and the Chief Finance Officer if the Chief Officer has validated and agreed the financial aspects of the report with the Chief Finance Officer. The onus is on the Chief Officer to obtain the agreement of the Chief Finance Officer;

(j) The Head of Paid Service and all Chief Officers should maintain a written record of all decision-making powers that have been delegated to other members of staff (including seconded staff). All such delegations will be recorded as part of the Council's Budget monitoring and closure processes;

(k) Where a decision has been delegated by the Head of Paid Service, a Statutory Officer, or another Chief Officer, references in these Financial Procedure Rules to such Officer will be read as referring to the Officer to whom the delegation has been made.

12.6.11 **Who else has responsibilities in respect of financial matters?**

(a) Internal Audit:

(i) Reviewing, appraising and reporting on the Council's control framework, including risk management, internal controls and governance arrangements;

(ii) Reviewing and reporting on:

(i) the extent of compliance with, and effectiveness of, relevant financial policies, plans and procedures;

(ii) the adequacy and application of financial and other related management controls;

(iii) the suitability of financial and other related management data; and

(iv) the extent to which Council assets and interests are accounted for and safeguarded against loss of any kind from:

(i) fraud and other offences;

(ii) waste, extravagance and inefficient administration;

(iii) inefficient Value for Money or other causes

(b) External Audit:

(i) Reviewing and reporting on the financial aspects of the Council's corporate governance arrangements

(ii) Reviewing and reporting on the Council's financial statements

(iii) Issuing an opinion on the Council's Statement of Accounts to confirm that the External Auditor is satisfied that it gives a "true and fair view" of the Council's financial position and its income and expenditure for the relevant year and complies with the legal requirements.

(iv) Issuing an opinion in relation to whether the Council has achieved Value for Money from its use of resources

C – Financial Planning And Budgetary Controls

12.6.12 **What are the budget arrangements?**

(a) The Council is required to set a balanced Revenue Budget each year, which sets out how its financial resources are to be allocated and utilised. The Revenue Budget sets out the Council's financial plan for the coming year in relation to the delivery of statutory services, and its local aims and objectives.

(b) The Council sets an overall Revenue Budget (which covers the costs of day-to-day running of the Council) and Capital Programme (which covers the Council's long-term investment in infrastructure and assets that enable service delivery) each year. Individual Directorate Budgets, set by Chief Officers with the support of the Chief Finance Officer, form part of the Council's annual Revenue Budget and Capital Programme.

12.6.13 **What are the key elements of financial planning for local authorities?**

The key elements of financial planning are:

(a) Medium-Term Financial Plan;

(b) Annual Revenue Budget;

(c) Capital Strategy and Capital Programme;

(d) Treasury Management Strategy and Prudential Indicators;

(e) Flexible Use of Capital Receipts Strategy (as applicable);

(f) Minimum Revenue Provision policy;

(g) Reserves Policy; and

(h) Charging Policy and associated fees and charges.

Budget Setting Process

12.6.14 **How is the Budget and Policy Framework developed?**

The detailed procedure for how the Council develops its Budget and Policy Framework is set out in the Budget and Policy Framework Rules at Section 15.

Responsibilities In Relation To Budgets

12.6.15 **What are Full Council's responsibilities in relation to financial planning?**

Full Council is responsible for:

(a) agreeing the Council's Budget and Policy Framework, which will be proposed by the Executive;

(b) setting the procedures for agreeing in-year variations to approved budgets, plans and strategies;

(c) determining when a decision will be deemed to be contrary to the Budget or Policy Framework in accordance with paragraphs 15.3.2 and 15.4.1; any such decision should be referred to Full Council by the Monitoring Officer;

(d) setting the level at which the Executive may reallocate Budget funds from one Directorate to another.

12.6.16 **What are the Executive's responsibilities in relation to financial planning?**

(a) The Executive will propose a Budget and Policy Framework for approval by Full Council in accordance with Section 15.

(b) The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework (see Section 15) within the financial limits set by the Council (see Section H of the Financial Procedure Rules at paragraph 12.6.123).

(c) Each year, the Chief Finance Officer shall report to the Executive on the general financial situation of the Council and on future financial scenarios in relation to the coming year's Budget prospects and long-term trends to inform the Budget process. Having regard to the Chief Finance Officer's reports and advice, the Executive shall recommend the general Budget strategy to be adopted with regard to preparation by Directorates of their annual Directorate Budget submissions.

12.6.17 **What are the Chief Finance Officer's responsibilities in relation to financial planning?**

(a) The Chief Finance Officer must report to Full Council[164] that the spending plans identified in the Budget and the Council Tax calculation for the Budget year and comment on the robustness of estimates that:

(i) direct resources towards Council priorities in an achievable way;

(ii) reflect the best estimates of pay and price increases available at the time;

(iii) consider and recognise the major financial risks facing the Council; and

(iv) contain proposals for increased income or reduced expenditure that are achievable.

(b) The Chief Finance Officer must also comment on the adequacy of the level of Council reserves and their sufficiency to meet the known financial risks facing the Council over the medium term.

(c) The Chief Finance Officer will ensure that Chief Officers are provided with guidance to support them in preparing their draft Directorate Budgets. This guidance will cover:

(i) legal requirements;

(ii) medium-term planning prospects;

(iii) available resources;

(iv) spending pressures;

(v) Best Value and other relevant government guidelines;

(vi) other internal policy documents; and

(vii) cross-cutting issues (where relevant).

12.6.18 **What are Chief Officers' responsibilities in relation to financial planning?**

Chief Officers must prepare detailed draft revenue and capital budgets for their Directorate, in consultation with the Chief Finance Officer, and in accordance with the guidance and timetable set by the Chief Finance Officer, for consideration by the Executive. This shall include budget proposals for investment, demand growth and savings, and income growth to achieve improved economy, efficiency and effectiveness of services.

Revenue Budget Preparation

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[164] Local Government Act 2003

12.6.19 **How is the Revenue Budget prepared?**

(a) The Council operates within an annual cash limit, approved when the Budget is set each year. The Chief Finance Officer is responsible for ensuring that a Revenue Budget is prepare on an annual basis for consideration by the Executive, before submission to Full Council. The draft Revenue Budget should include allocations to different services and projects, proposed taxation levels and contingency funds.

(b) Full Council may amend the Budget, or ask the Executive to reconsider it, before approving it. The process for this is set out in the Budget and Policy Framework Procedure Rules at Section 15.

12.6.20 **How is the Medium-Term Financial Plan prepared?**

(a) The Medium-Term Financial Plan brings together the key assumptions about financing resources (including Council Tax, non-domestic rates and general government grants) and spending pressures over the medium to longer term. The Medium-Term Financial Plan covers a period of three to five years.

(b) This enables the Council to plan for financial risks and monitor and control the way resources are allocated and spent to meet the Council's objectives and to secure value for money and informs the setting of Directorate financial targets for the annual revenue budget and capital payments guidelines that gives authority to Budget Holders to incur expenditure to meet service standards and targets.

(c) It is the responsibility of the Chief Finance Officer to ensure that reports are presented to Council, as part of the annual budget setting process, on the medium-term budget prospects and the resource constraints set by the Government.

(d) Detailed processes for the preparation of the Medium-Term Financial Plan (including Directorate Medium-Term Financial plans), Revenue Budgets and the Capital Programme shall be issued by the Chief Finance Officer. These will take into account:

(i) the need for Directorates to demonstrate value for money, efficiency and effectiveness in current services and proposals for change;

(ii) the service impact on national and local policy priorities, including statutory requirements;

(iii) policy choices available to the Council, including the implementation of statutory requirements;

(iv) the risks and opportunities in implementing changes;

(v) the impact of proposals in the medium term; and

(vi) exit strategies related to one-off or time limited funding.

Capital Budget Preparation

12.6.21 **When will the Council prepare the Capital Programme?**

(a) A Capital Programme is prepared by the Council each year, setting out the capital projects the Council has agreed. Save as set out in section 12.6.25, capital projects will only be added to the Capital Programme as part of the annual Budget setting process.

(b) The Capital Programme covers a period of three to five years in line with the Medium-Term Financial Plan period. Approval of the Capital Programme includes approval of the financing of the capital spend associated with each of the projects within the Capital Programme.

12.6.22 **What is the process for preparing the Capital Programme?**

(a) The Chief Finance Officer is responsible for ensuring that the Capital Programme is prepared each year for consideration by the Executive before submission to Full Council. They will also ensure that the financial implications of the Capital Programme are reflected in the Revenue Budget.

(b) The Executive will recommend the policy guidelines within which a forward Capital Programme should be prepared each year through the Council's Capital Strategy report. This will define affordability, sustainability and prudence in the context of the Council's Medium Term Financial Strategy.

(c) The Chief Finance Officer will report to the Executive on the current and planned Capital Programme each quarter. New capital projects recommended for Executive approval will be subject to a capital project appraisal, the format of which is to be agreed by the Executive.

12.6.23 **How is capital expenditure authorised?**

(a) Capital expenditure involves the creation, acquisition or enhancement of assets (for example, buildings and highways) to provide a long-term benefit to the Council in the delivery of services. Capital assets are integral to how services are delivered and create long-term financial revenue commitments in the form of life cycle costs and financing costs (if funded by borrowing).

(b) The definition of capital expenditure will be determined by the Council in accordance with relevant statutory provisions, the local authority accounting code of practice issued annually by CIPFA and the advice of the Chief Finance Officer.

(c) The Chief Finance Officer and Chief Officers have a responsibility to provide a framework to ensure that Council resources are applied effectively to meet the priorities and objectives of the Council and that the delivery of new capital projects, and significant changes to existing capital projects are reported appropriately.

(d) A business case should be prepared for each capital project and this should be submitted to the Chief Finance Officer for review before approval by the Executive. Business cases should comply with the principles of HM Treasury's Green Book and Business Case Guidance and the guidance provided by the Chief Finance Officer. Where a capital project is expected to change significantly (as defined above), either in cost or outcome, a revised business case must be submitted to the relevant Chief Officer before any such change is agreed. Where the change is likely to be material (as determined by guidance set out by the Chief Finance Officer), the Chief Officer should seek approval from the Executive.

(e) Every capital project should have a designated project manager and project owner who is responsible for overseeing progress of that project, ensuring that project milestones are met, and that the project complies with the Council's project governance procedures.

(f) Capital projects may only be approved if they are included in the Capital Programme.

(g) Finance functions delegated to Officers, including spending limits in respect of capital expenditure, are set out in the Scheme of Delegation.

12.6.24 **What happens if a capital project is being funded by external funding?**

Where capital expenditure is to be met in part or whole by a grant, contribution from another party (e.g., a government department) or from Council-wide resources (external borrowing or capital receipts), no expenditure shall be incurred until all necessary approvals have been obtained, including from the Executive.

12.6.25 **When may a capital project be added to the Capital Programme in-year?**

(a) Capital projects may be added to the Capital Programme in-year where they are wholly funded from external sources, and they are in accordance with the Budget and Policy Framework. The approval of the Executive is required for any such addition, and the Executive will consider such additions on a quarterly basis.

(b) Where the project to be added to the Capital Programme in-year is funded from within the approved prudential borrowing limit (approved

by Council as part of the annual budget process), the addition of the project will be approved by the Executive.

(c) Where the project to be added to the Capital Programme in-year is in excess of the approved prudential borrowing limit (approved by Council as part of the annual budget process), the addition of the project will need to be approved by Full Council.

Reserves

12.6.26 **What are the requirements for the Council to maintain reserves?**

(a) The Council is required to maintain a reserve balance so that it can cope with unpredictable financial pressures and plan its future spending commitments.

(b) A general strategic reserve is maintained to cover unforeseen strategic, operational and financial risks, and earmarked reserves are held for identified spending commitments. The Chief Finance Officer will ensure that there are clear protocols for the establishment and use of reserves.

12.6.27 **When may reserves be used?**

(a) The creation of, or addition to, any reserve will be subject to the approval of the Executive on the recommendation of the Chief Finance Officer and shall be in accordance with the purpose for which the reserve was established. For each reserve established, the purpose, usage (including the timeframe for usage) and basis of transactions will be clearly articulated.

(b) The withdrawal of funds from a reserve will require the approval of the Chief Finance Officer and shall be applied for the purpose that the reserve was established. In the case of balances held by schools, the relevant Board of Governors is responsible for giving authorisation.

12.6.28 **How are reserve requirements set?**

The level of reserves will be reviewed twice annually by the Chief Finance Officer at budget setting and in closing the accounts. The Chief Finance Officer will advise on prudent levels of reserves and balances for the Council. In developing a reserve strategy, the Chief Finance Officer will ensure that the level of reserves:

(a) is sufficient to ensure that the Council can comply with its statutory financial duties of setting a balanced Revenue Budget;

(b) takes into account the known risks over the life of the Medium-Term Financial Plan; and

(c) is capable of covering the estimated financial risk of the Council, including contingent liabilities and insurance exposure risks.

12.6.29 **When must the Chief Finance Officer report on the level of reserves?**

(a) The Chief Finance Officer must report to the Council if there is, or is likely to be, unlawful expenditure or an unbalanced Budget. This would include situations where reserves have become seriously depleted and it is forecast that the Council will not have the resources to meet its expenditure in a particular financial year[165].

(b) The Chief Finance Officer must also assess and report on of the robustness of the Budget and adequacy of reserves under Section 25 of the Local Governance Finance Act 2003[166].

Fees And Charges

12.6.30 **How are fees and charges increased each year?**

(a) Fees and charges will normally be reviewed and revised as part of the annual Budget setting process and will normally apply with effect from 1 April each year.

(b) The Chief Finance Officer will include in the Medium-Term Financial Plan the relevant assumptions and requirements applicable to setting fees and charges.

(c) The Chief Finance Officer will keep fees and charges under periodic review and will refer any in-year revisions to the Executive for approval, as required.

External Funding

12.6.31 **What external funding can the Council receive?**

(a) The Council may receive external funding in the form of grants or other financial support from the government or other funding bodies. Funding conditions should be considered carefully to ensure that they are compatible with the Council's strategic aims and objectives and available resources.

(b) The Chief Officers may only seek external funding to meet the priorities approved in the Policy Framework. Chief Officers must ensure that:

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165 Local Government Finance Act 1988, section 114

166 Local Government Finance Act 2003, section 25

(i) the key conditions of any external funding are understood and can be complied with, including the ability to provide match funding, as required;

(ii) any statutory requirements relating to external funding are complied with;

(iii) the Council's responsibilities are fully understood and deliverable;

(iv) there is a feasible exit strategy aligned to the expiry of the period of grant funding with respect to ongoing resource requirements and any long-term financial obligations on the Council to maintain service levels and / or assets;

(v) the impact on the Revenue Budget and the Capital Programme is fully considered and reflected; and

(vi) the Chief Finance Officer is consulted and has agreed to a bid before it is submitted.

12.6.32 **What are the Chief Finance Officer's responsibilities in relation to external funding?**

The Chief Finance Officer will ensure that:

(a) all funding notified to external bodies is received and properly recorded in the Council's accounts;

(b) appropriate arrangements are made to ensure that the Council complies with external funding conditions in order to avoid the grant paying body having cause to clawback all or part of the original funding amount received;

(c) the match-funding requirements are considered before entering into any external funding agreements and that future Revenue Budgets and the Capital Programme reflect these requirements;

(d) details of new funding streams are routinely reported to the Executive as part of quarterly budget monitoring reports;

(e) any funding application for an amount above the limit set out in the Financial Limits Annex (see Section H of these Financial Procedure Rules at Table 11) is approved by the Executive; and

(f) audit requirements are met in relation to external funding.

For the avoidance of doubt, applications for external funding up to the limit set out in the Financial Limits Annex at Table 11 will be subject to the approval of the Chief Finance Officer.

12.6.33 **What are Chief Officer's responsibilities in relation to external funding?**

Chief Officers will ensure that:

(a) the Chief Finance Officer is informed of, and has agreed to, all external funding arrangements;

(b) all claims for funding are approved by the Chief Finance Officer or an Officer nominated by them;

(c) all claims for funds are made by the due date;

(d) the match-funding requirements are considered before entering into the funding agreements and are approved by the Chief Finance Officer;

(e) the project for which external funding has been sought progresses in accordance with the agreed project plan and funding conditions and that all expenditure is properly incurred and completely and accurately recorded;

(f) if the funding is to support capital investment, the appropriate approval process is followed as set out in section 12.6.23;

(g) notification of a successful application for external funding is obtained in writing stating the amount and conditions relating to its receipt; and

(h) subject to section (e) above, the Executive is made aware of any application, award or successful bid, for funding from an external body.

12.6.34 **What information should be included in a bid for external funding?**

(a) All bids for external funding should include a full financial appraisal with the appropriate level of support from Finance staff. Chief Officers shall submit to the Directorate Finance Business Partner bids for external funding and claims for validation and certification prior to submission. All grant claims should be completed in conjunction with the relevant Finance Business Partner.

(b) Chief Officers should ensure that any bid for external funding meets the requirements set out in the application form. Where a bid is made for discretionary external funding, particular attention should be paid to the criteria on which a funding award will be based, and the bid should be appropriately focused.

12.6.35 **Who may approve a bid for external funding?**

(a) A bid for external funding should be approved in accordance with the financial thresholds set out in the Scheme of Delegation.

(b) All grant bids with a value up to the Key Decision Threshold should be submitted to the Chief Finance Officer's nominated deputy for approval and should be signed by that deputy and the relevant Director.

(c) Grant bids above the Key Decision Threshold should be submitted to the Leadership Management Team for consideration[167] and should be approved and signed by the Chief Finance Officer.

12.6.36 **What happens if a bid for external funding needs to be submitted urgently?**

Where the timeframe to submit a bid for external funding is urgent or does not allow for the process set out above to be followed in full, Chief Officers may submit the bid without following the process in full, provided that they:

(a) gain approval from the Chief Finance Officer or an Officer nominated by them before submitting the bid;

(b) comply with the Access to Information Procedure Rules (see section 14);

(c) take all reasonable steps to comply with the External Funding provisions set out in these Financial Procedure Rules;

(d) complete any necessary documentation as soon as reasonably practicable after the submission is made.

12.6.37 **What happens if the Council is required to act as accountable body for external funding?**

Where it is necessary for the Council to act as the accountable body (on behalf of partners) in relation to external funding or any grant bids made, the relevant Chief Officer should consult with, and gain the approval of, the Chief Finance Officer so that the necessary due diligence can be undertaken before any commitments are made.

D: Financial Management

12.6.38 **Why is the budget monitored?**

Budget monitoring ensures that, once Full Council has approved the Budget, the resources allocated under that Budget are used for their

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[167] Not approval as the Leadership Management Team is not a decision making body – it is a meeting of decision makers

intended purpose and are properly accounted for. Budget monitoring allows the Council to oversee its Budgets throughout the financial year, ensure that all relevant controls are being used effectively, and make adjustments to respond to in-year changes. It also enables the Council to hold Budget Holders and Directorates to account for their management of the budgets allocated to them.

12.6.39 **What are Officers authorised to spend?**

Approval by Full Council of the Budget constitutes authority for the Council to incur the agreed expenditure, save to the extent that a reservation has been placed on the Revenue Budget or Capital Programme.

12.6.40 **What are the Executive's responsibilities in relation to Budget monitoring?**

The Executive is responsible for keeping under review the financial performance of each Directorate and the Council as a whole during the financial year.

12.6.41 **What are the Chief Finance Officer's responsibilities in relation to Budget monitoring?**

(a) The Chief Finance Officer will establish an appropriate framework of budgetary monitoring and control which ensures that:

(i) budgetary management is exercised within the limits set in the Budget unless agreed otherwise by Full Council;

(ii) each Chief Officer and Budget Holder has access to timely, relevant and accurate information on receipts and payments on each budget, which is sufficiently detailed to enable Budget Holders to fulfil their budgetary responsibilities;

(iii) expenditure is only committed against an approved budget head in line with the chart of accounts;

(iv) all Officers responsible for committing expenditure comply with relevant guidance and these Financial Procedure Rules;

(v) each cost centre has a single named Budget Holder, determined by the relevant Chief Officer; as a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure; and

(vi) variances from approved budgets are investigated and reported by Budget Holders in accordance with guidance set annually by the Chief Finance Officer.

(b) The Chief Finance Officer will make arrangements to ensure that effective monitoring and control of expenditure against Budget

allocations takes place and will report to the Executive on the overall position of the Council's finances as a minimum on a quarterly basis.

12.6.42 **What are Chief Officers' responsibilities in relation to Budget monitoring?**

(a) It is the responsibility of Chief Officers to control income and expenditure within their Directorate and to monitor financial performance, taking account of financial information provided by the Chief Finance Officer and / or their own systems.

(b) It is the responsibility of each Chief Officer to identify Budget Holders under their direct control and to ensure that Directorate Budgets are not overspent. They should also take any action necessary to avoid exceeding their Directorate Budget allocation and alert the Chief Finance Officer to any problems at the earliest opportunity.

(c) Each Chief Officer shall work with the Chief Finance Officer to report to the Leadership Management Team on a monthly basis. They will be required to present:

(i) actual performance and variances against Directorate Budgets;

(ii) all significant variances (as defined in the Financial Limits Annex at Table 11) substantiated with justifiable explanations and management actions being taken to address them;

(iii) progress of delivery of savings against any applicable savings plan;

(iv) a forecast of projected outturn performance and variance, including details of budget pressures, risks and issues.; and

(v) a financial recovery plan to address adverse variances to bring the net expenditure within the approved budget.

12.6.43 **What are Budget Holders' responsibilities in relation to Budget monitoring?**

(a) Chief Officers should ensure that there is a designated Budget Holder for each cost centre heading who is responsible for income and expenditure within their influence and control. They should ensure that all financial transactions are properly recorded and accounted for.

(b) Budget Holders should be held accountable for their budgets and the level of service to be delivered and should understand their financial responsibilities. They will report on a monthly basis to their Directorate Management Team to enable the relevant Chief Officer to report to the Leadership Management Team as set out in paragraph (b). Budget

Holders must monitor the performance levels and take necessary action to align service outputs with their approved budget.

(c) Budget Holders are responsible for:

(i) accounting for actual performance and variance against their profiled budget;

(ii) providing a justifiable explanation for any significant variance to their budget and management actions being taken to bring expenditure within the approved budget; and

(iii) complying with guidance set out annually by the Chief Finance Officer on tolerance of variances.

(d) All Officers will take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer as soon as practicable if this cannot be achieved.

Revenue Budget Over / Under Spending

12.6.44 **Who is responsible for ensuring that spending does not exceed the Budget?**

Chief Officers shall ensure that capital and revenue spending are each contained within their approved Budget.

12.6.45 **What happens if a Directorate Budget is overspent?**

(a) If a Directorate Budget agreed by the Council becomes, or is expected to become, overspent the appropriate Chief Officer must take action to correct the position.

(b) In some circumstances, it will be permissible to transfer a budget either between Directorates, or between budget headings within a directorate, subject to approved service plans and Council priorities. Any such transfer is known as a 'virement'. The rules contained in paragraphs 12.6.45(c) and 15.5 will apply to any virement.

(c) Virement between budgets is allowed in accordance with the rules and limits currently prescribed by the Council, as follows:

(i) all proposed virements must be reported to the Chief Finance Officer or an Officer nominated by them;

(ii) any virement involving a change in policy that, in the opinion of the Monitoring Officer and the Chief Finance Officer is contrary to or not wholly in accordance with the Budget and Policy Framework, will be subject to Executive approval;

(iii) any virement proposing a permanent change in staffing establishments requires the approval of the Head of Paid Service;

(iv) no proposed virement shall be used to justify additional resource allocation in following years;

(v) once a proposed virement has been agreed / approved, the Chief Finance Officer shall ensure that the appropriate changes are made to the Council's computerised accountancy system at the earliest opportunity;

(vi) Executive approval is required for any virement where it is proposed to vire between service level budgets agreed by Council in setting the annual Revenue Budget;

(vii) Chief Officers may vire within the overall Directorate Budget allocated to them by the Council in the annual Budget setting report, within the virement rules below;

(viii) each Chief Officer will keep a record of any virement made within their allocated budget and the Chief Finance Officer will keep a central record of all virements made across the Council; and

(ix) virements will be reported in accordance with guidance provided by the Chief Finance Officer.

(d) The financial limits applicable to virements are as set out in the Financial Limits Annex at Table 11 in Section H of the Financial Procedure Rules.

(e) For the avoidance of doubt, where paragraph 12.6.45(c)(ii) applies, Executive approval will be required, regardless of the value of the virement.

12.6.46 **When may a Chief Officer carry forward an underspend to their Directorate Budget?**

(a) Directorates shall not be permitted to carry forward underspends against revenue budgets unless there are exceptional circumstances specifically agreed by the Chief Finance Officer who shall provide guidance as part of the annual accounts closure process.

(b) Unless otherwise approved by the Chief Finance Officer or their nominated deputy, carry forward of underspend against revenue budgets shall only be permitted where:

(i) that expenditure is directly linked and dependent on a specific grant which can also be carried forward to meet the expenditure incurred; or

(ii) there is a contractual commitment for goods, works and / or services that exists before the year end and, due to exceptional circumstances, the Council has been unable to obtain receipt or delivery before 31 March.

Managing Capital Expenditure

12.6.47 **How is capital expenditure managed?**

(a) The Capital Programme is a multi-year programme to which resources are allocated to fund agreed capital projects. Not all capital projects will progress in line with their planned project timeline and delays of and acceleration to capital projects against their original plan are likely to occur across the period of the Capital Programme. This provides the Council with flexibility to manage capital projects over the medium term and ensure that desired outcomes are achieved in the most efficient and cost-effective way.

(b) The Executive is able to agree in-year changes to the profile of capital spending and to either delay a capital project to a future year or bring a capital project forward to the current year, in order to meet this objective.

12.6.48 **What happens if a capital project exceeds its budgetary provision?**

(a) Where the actual or estimated cost of a capital scheme is forecast to exceed its original budgetary provision, the relevant Chief Officers shall, where required by guidance provided by the Chief Finance Officer, prepare a report for the Executive outlining the proposed management actions to address the overspend. The Executive will consider and approve management actions. This may include the use of virement powers contained in paragraph 12.6.48(b) or the reduction of overall expenditure within the Capital Programme.

(b) Virement between one capital project and another is allowed in accordance with the rules and limits prescribed by the Council, as follows:

(i) virements between capital projects are subject to approval by the Executive;

(ii) all necessary approvals must be obtained from external funding bodies, where necessary;

(iii) the virement must not increase the need for Council financial resources above the level approved in the Capital Programme; and

(iv) the diversion of expenditure should not increase the Council's eventual revenue costs.

(c) The relevant Chief Officer will keep a record of any virement made within a project for which they are responsible, and the Chief Finance Officer will keep a central record of all virements made across the Council.

(d) The Chief Finance Officer will maintain a contingency within the Capital Programme to be applied to virements between capital projects. Any such application of this contingency for virements up to the Key Decision Threshold will be subject to the approval of the Chief Finance Officer and the virement will be reported to the next meeting of the Executive. Any application of the contingency for a virement above the Key Decision Threshold will be subject to Executive approval.

12.6.49 **What happens if there are changes to a capital project?**

(a) Any proposal to add, delete, substitute or substantially amend any capital project shall be subject to approval by the Executive.

(b) Any in-year underspend on a capital project, whether resulting from slippage or cost savings, shall be reported to the Executive and shall not be used by services to fund additional capital expenditure unless agreed by the Executive.

Assets, Security and Risk Management

12.6.50 **Why do we manage assets, security and risk?**

The Council's assets represent a significant resource, which must be protected against loss or misuse. The need for effective measures to reduce losses has led the Council to adopt a positive strategy towards the management of risk.

12.6.51 **What is the role of the corporate landlord?**

(a) The Head of Paid Service will nominate an Officer to act as Corporate Landlord on its behalf. The Corporate Landlord will:

(i) hold the title deeds for all Council properties;

(ii) oversee and co-ordinate central records of Council assets and will liaise with the Chief Financial Officer to ensure an up to date Fixed Asset Register for accounting and valuation purposes;

(iii) ensure the proper security and maintenance of all premises occupied and / or owned by the Council;

(iv) develop an asset management strategy to include plans for the acquisition, disposal and maintenance of Council assets to

secure Best Value over the course of the Medium-Term Financial Plan;

(v) arrange for the valuation of land and building assets for accounting purposes in accordance with the Local Government Act 1989 and associated professional codes of practice; and

(vi) maintain the Council's property asset management systems.

(b) The Chief Finance Officer will maintain a Fixed Asset Register of all of the Council's assets, which will identify each Chief Officer's responsibilities in relation to assets that sit within their Directorate.

(c) To support the Corporate Landlord in executing their duties, Chief Officers will:

(i) advise the Corporate Landlord of any situation where the security of Council premises is thought to be defective or where it is considered that special security arrangements may be needed;

(ii) ensure that no Council asset is subject to personal use by an employee without proper authority;

(iii) ensure the safe custody of vehicles, equipment, furniture, inventory, stores and other property belonging to the Council;

(iv) ensure that cash holdings on Council premises are kept to a minimum; and

(v) ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times.

12.6.52 **What are Chief Officers' responsibilities in relation to inventory of Council assets?**

(a) All Chief Officers shall maintain an inventory for each establishment within their control, recording an adequate description of readily portable items of furniture, fittings, equipment, tools, plant and machinery in a form approved by the Chief Finance Officer.

(b) All Chief Officers shall arrange for regular physical checks (at least annually) to be carried out of equipment, stores etc. against the relevant records. Any surplus, deficiency or deterioration revealed as a result of such checks shall be identified, investigated, pursued to a satisfactory conclusion and the inventory updated accordingly. All changes shall be reported to the Chief Finance Officer in accordance with the annual accounts closure process, for which guidance is issued annually.

(c) The Council's property shall not be removed other than in accordance with the ordinary course of business, or used other than for the Council's purposes, except where the relevant Chief Officer has given specific written directions.

(d) Assets owned by the Council shall, as far as possible, be effectively marked as Council property.

12.6.53 **When may surplus / obsolete stock be disposed of?**

(a) Before Chief Officers take any action on the disposal of surplus or obsolete stock, they should consult other Chief Officers to determine if there is a continuing need for the item(s) within the Council. Where there is no internal need for the item(s), Chief Officers shall arrange for the items to be offered for sale by competitive tender or public auction, except as agreed otherwise by the Chief Finance Officer and in accordance with the Procurement and Contract Procedure Rules.

(b) The Chief Finance Officer shall be notified of the intention to dispose of any item which might be regarded as a capital asset, or which was originally obtained via a leasing agreement.

12.6.54 **What are the competition requirements for disposals made by the Council?**

(a) Assets for disposal must be sent to public auction except where better value for money is likely to be obtained by inviting Quotations and Tenders.

(b) Where Quotations or Tenders are used, the method of disposal of surplus or obsolete stocks / stores or assets other than land must be determined as follows:

(i) The financial thresholds applicable to disposals made by the Council and the disposal methods to be adopted are set out in the Financial Limits Annex at Table 11.

(ii) The Council's Asset Acquisition and Disposal Policy applies to disposals of land assets.

12.6.55 **Who must approve the leasing of an asset?**

Any acquisition, extension or variation by the Council of a leased asset must be approved by the Chief Finance Officer. Such arrangements must represent Value for Money and be accounted for appropriately.

12.6.56 **How are leased assets managed?**

(a) All leased assets shall be identified and recorded separately in any inventory (see paragraph 12.6.52).

(b) No leased asset shall be disposed of without the written agreement of the Chief Finance Officer.

(c) Assets leased by the Council must be maintained in full working order in accordance with the terms of the lease and shall not be adapted for any alternative use without the prior written agreement of the Chief Finance Officer.

12.6.57 **What are the Council's arrangements for asset security?**

(a) All Chief Officers shall be responsible for introducing and maintaining adequate arrangements for all aspects of security of assets under their control, including personnel, stores, equipment, cash, data, and confidential information. The Chief Finance Officer shall be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

(b) The Chief Finance Officer shall be responsible for ensuring that secure arrangements are made for the preparation and holding of pre-signed stock certificates, bonds and other financial documents.

(c) All Chief Officers should ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure.

12.6.58 **What are the Council's arrangements for information governance?**

(a) All employees of the Council have a personal responsibility to protect and maintain the confidentiality of information, whether held in paper-based or computerised records. Information may be classified as sensitive, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way. Officers should ensure that operational activity complies with the policies that comprise the Information Governance Framework.

This document was classified as: OFFICIAL

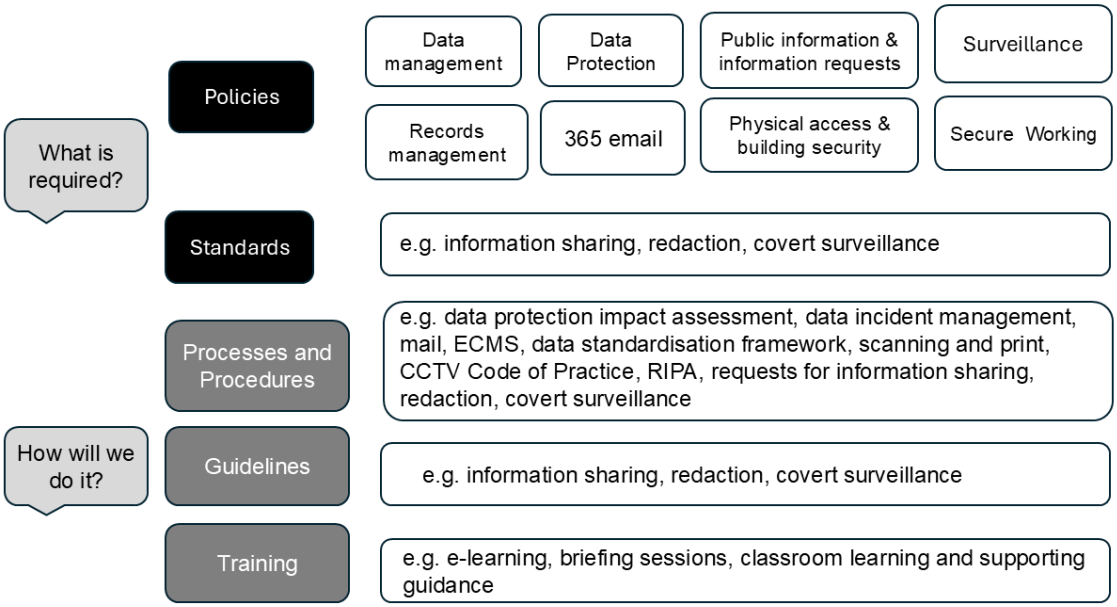

Figure 4: Information Governance framework

(b) All Chief Officers shall ensure their staff have an awareness of safety and security issues in relation to information, and an appreciation of the individual responsibilities of staff under the Health and Safety at Work Act 1974 and otherwise to ensure the safety of individuals and the security of the Council's assets.

(c) The Council has adopted a Computer Security Code of Practice. All Chief Officers should ensure that their staff are familiar with this document, and that effective controls and security routines are operated to protect data against the hazards listed (e.g., computer viruses; unauthorised access; loss of data etc.).

(d) It is the responsibility of Chief Officers to ensure that all computerised systems within their responsibility are properly registered and operated in accordance with requirements of applicable data protection legislation.

12.6.59 **What are the Council's arrangements in respect of insurance?**

(a) The Chief Finance Officer shall ensure that adequate insurance protection is maintained for the Council's assets and operations where it is considered to be cost-effective and appropriate. Such protection may, on advice, be arranged by way of external insurance cover, or by way of an internal 'Insurance Fund' established for that purpose, or a combination of such measures.

(b) The Chief Finance Officer shall be responsible for the negotiation of all the Council's insurance contracts, and Chief Officers shall provide all such information and assistance as is required to facilitate such negotiations. No insurance contracts may be entered into by Chief Officers other than through the Chief Finance Officer.

(c) Each Chief Officer shall give prompt notification to the Chief Finance Officer of all new insurable risks and all changes in operations, responsibilities, contractual arrangements, indemnities, or ownership or occupation of properties in which the Council has an interest whenever such changes may have a bearing on any of the Council's insurance arrangements.

(d) Each Chief Officer shall be responsible for providing prompt notification to the Chief Finance Officer of all incidents likely to give rise to an insurance claim by or against the Council. In the case of accidents involving death or serious injury to any party, such notification shall in the first instance be by way of an immediate oral report.

(e) Each Chief Officer shall ensure full and prompt co-operation of their Service and individual staff in the investigation, defence and negotiation of claims.

(f) Chief Officers may arrange with the Chief Finance Officer for the provision of insurance cover additional to those arranged generally for the Council when they judge such additional cover to be appropriate based on the risk involved.

(g) Fortuitous accidents and losses, which arise in a wide variety of ways, may have a very significant impact both in humanitarian terms, and in terms of financial cost to the Council. It is the responsibility of every Chief Officer to manage the operations of their Directorate in such a way as to reduce, as much as reasonably practicable, both the humanitarian and financial costs of risks. To this end, all Chief Officers must consider the risk and insurance implications of all existing and new operations undertaken, and contracts and indemnities entered into; where appropriate consulting with specialist Health and Safety, Risk Management, Insurance, Legal or other technical staff within the Council in order to minimise the attendant risks.

12.6.60 **What are the Council's arrangements for risk management?**

(a) The Chief Finance Officer is responsible for risk management.

(b) The Council has a Risk and Opportunity Management Policy, agreed by the Executive, which articulates the Council's risk appetite and how it manages risks and opportunities.

(c) The Deputy Chief Officer with responsibility for Policy, Governance and Information shall, in consultation with the Chief Finance Officer, provide advice on risk management and the risks facing the Council in relation to the development and operation of the Council's Risk and Opportunity Management Policy. Each Chief Officer has a responsibility to support these initiatives with the aim of improving risk management throughout the organisation.

Internal Audit

12.6.61 **What is Internal Audit?**

(a) Internal audit systematically monitors the Council's objectives and, through an examination of system and management controls, attempts to ensure that those objectives are being met in the most efficient, economic and effective manner.

(b) Every local authority is required to maintain adequate and effective internal audit[168]. The Council has delegated this statutory responsibility to the Chief Finance Officer.

12.6.62 **What is the scope of the internal audit role?**

(a) As a service to management, internal audit shall provide an independent appraisal of all the Council's activities, reporting on the adequacy and effectiveness of the systems of internal control, including management controls and arrangements.

(b) The internal audit appraisal has the following objectives:

(i) review the soundness, adequacy and application of accounting, financial and other internal controls;

(ii) ascertain the extent to which systems of control ensure compliance with established policies and procedures;

(iii) ascertain the extent to which assets and interests entrusted to or funded by the Council are properly controlled and safeguarded from losses of all kinds;

(iv) ascertain that accounting and other information is reliable as a basis for the production of accounts and other returns;

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[168] Accounts and Audit Regulations 1996

(v) ascertain the integrity and reliability of financial and other information provided to management, including that used in decision making; and

(vi) ascertain that systems of control are laid down and operate to promote the most economic, efficient and effective use of resources.

(c) The Chief Finance Officer shall ensure that the internal audit function is adequately resourced to perform effectively.

12.6.63 **What is the Chief Finance Officer authorised to do in connection with Internal Audit?**

(a) For the purposes of internal audit, the Chief Finance Officer or their authorised representative(s) shall have authority on production of identification to:

(i) enter any Council property or land at all reasonable times;

(ii) have access to all assets, staff, records, computer files, documents and correspondence relating to any financial and other transactions;

(iii) require and receive such explanations as are necessary concerning any matter under examination;

(iv) require any employee holding or controlling cash, stores or any other Council property to produce such items;

(v) access records belonging to third parties, such as contractors and partners, when required; and

(vi) have direct access to the Head of Paid Service and the Executive.

(b) In relation to these rights of access, internal audit officers have a personal responsibility to observe the highest standards of confidentiality and personal integrity.

12.6.64 **What happens if there is irregularity or suspected irregularity?**

(a) Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council, the Chief Officer concerned shall immediately notify the Chief Finance Officer or internal audit (as appropriate), who shall investigate and report as necessary. Pending any investigation and reporting, the appropriate Chief Officer should take all necessary steps to prevent further loss and secure records and documentation against removal or alteration.

(b) Individuals may also report any matter of concern under the Whistleblowing Policy and Procedure.

(c) Chief Officers shall ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

12.6.65 **What is the role of the Audit Committee in relation to internal audit?**

The role of the Audit Committee in relation to internal audit is set out in Part B of Section 10.

Taxation

12.6.66 **What is the role of the Chief Finance Officer in relation to taxation?**

(a) The Chief Finance Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affects the Council either directly, as a consequence of its own activities, or indirectly, as a result of service delivery through external partners.

(b) The Chief Finance Officer will maintain the Council's tax records, make all tax payments, receive tax credits and submit tax returns by their due date, as appropriate.

12.6.67 **What is the role of Chief Officers in relation to taxation?**

To enable the Chief Finance Officer to fulfil the requirements of this role, Chief Officers will ensure that:

(a) the Chief Finance Officer is consulted on all proposals that may alter or affect the Council's tax liability.

(b) the VAT guidance issued by the Chief Finance Officer is complied with (i.e., to ensure that the correct liability is attached to all income due and that all amounts recoverable on purchases can be claimed).

(c) where construction and maintenance works are undertaken, the sub-contractor fulfils the necessary construction industry tax scheme requirements (as advised by the Chief Finance Officer).

(d) the Deputy Chief Officer with responsibility for Commissioning and Procurement's guidance on fee payments to consultants, individuals or partners is complied with.

Preventing Fraud and Corruption

12.6.68 **What are the Council's Anti-Money Laundering Policy and Procedures?**

(a) The Council has an effective Anti-Money Laundering Policy and Procedures and maintains a culture that will not tolerate fraud or

corruption. It is the responsibility of the Chief Finance Officer to maintain the Council's Anti-Money Laundering Policy and Procedures.

(b) Chief Officers must ensure that this policy and associated procedures that sit behind it are adhered to and that all appropriate action is taken to prevent money laundering. This includes reporting all suspected irregularities to the Chief Officer responsible for Internal Audit (see paragraph 12.6.64).

12.6.69 **When must Officers declare an interest?**

To avoid giving rise to suspicion about the honesty and integrity of the Council or its employees, or giving the impression of corruption or improper behaviour, all interests of a personal and / or financial nature with external bodies or persons who have dealings with the Council, or any other interests which could conflict with an officer's duties, must be declared in accordance with the Officer Code of Conduct at paragraph 9.13.

12.6.70 **When may gifts and hospitality be accepted?**

(a) Officers must be cautious regarding offers of gifts and hospitality as acceptance can easily give the impression of improper behaviour or favour.

(b) The Council's Protocol for Members and Officers on Gifts and Hospitality (see paragraph 5.12) explains how offers of gifts and hospitality are to be dealt with, including what can be accepted, what cannot be accepted, and what must be declared.

12.6.71 **How does the Council deal with its anti-money laundering obligations?**

(a) Money laundering is defined as:

(i) Concealing, disguising, converting, transferring or removing criminal property from the Country:

(ii) Being concerned in an arrangement which a person knows of, suspects or facilitates the acquisition, retention, use or control of criminal property.

(b) In accordance with the Council's Anti Money Laundering Policy, all suspected attempts to use the Council to launder money must be reported to the Chief Finance Officer, who is the Council's Money Laundering Reporting Officer.

(c) Chief Officers must ensure that their staff understand what money laundering is and their obligations under the anti-money laundering legislation, so that they can recognise situations that might lead to suspicions of money laundering.

(d) When a person knows or suspects that money laundering activity is taking place (or has taken place) or becomes concerned that their involvement in a matter may amount to a prohibited act under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2011, they must disclose this as soon as practicable or risk prosecution.

(e) To mitigate the risks of the Council being used to launder money:

(i) cash receipts exceeding £1,000 will not be accepted other than with the prior approval of the Chief Finance Officer; and

(ii) receipts and payments unrelated to the Council's own activities will not be paid into or from a Council bank account without the prior approval of the Chief Finance Officer.

12.6.72 **How does the Council deal with its anti-bribery obligations?**

(a) Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Bribery Act 2010 has been enacted to enable robust action against such activity.

(b) In accordance with the Council's Anti-bribery Policy, the detection, prevention and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control.

E: Financial Systems, Processes and Procedures

12.6.73 **Why are financial systems and processes required?**

(a) Sound financial systems and procedures are essential to providing an effective framework of accountability and control for the Council's financial governance.

(b) The main accounting system should provide data that is accurate and adequate for the published final accounts and management in the conduct of their business. Secure and reliable systems are essential to ensure that individual transactions are processed and recorded accurately.

Financial Systems

12.6.74 **What are the Chief Finance Officer's responsibilities in relation to financial systems?**

(a) The Chief Finance Officer is responsible for the provision of a corporate system for the preparation of the Council's accounts and for recording managing and reporting expenditure and income. This is currently provided by means of the Council's financial system.

(b) The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to existing financial systems, or the establishment of new systems, must be approved by the Chief Finance Officer. Any changes to agreed financial procedures by Chief Officers to meet their own specific Directorate needs should be approve by the Chief Finance Officer.

12.6.75 **What are Chief Officers' responsibilities in relation to financial systems?**

(a) Chief Officers are responsible for the proper operation of financial processes in their own directorates.

(b) Chief Officers are responsible for ensuring that the financial system accurately records the financial transactions of their functions, and for complying with guidance issued by the Chief Finance Officer on the uses of such systems and the information to be recorded.

(c) Chief Officers shall ensure that all income and expenditure, regardless of its source, is processed through the financial system and that all transactions are recorded in a manner that complies with proper accounting practices, enables returns to be made to taxation authorities, and complies with other legal requirements. The Chief Finance Officer shall give guidance and training as necessary to enable Chief Officers to fulfil this obligation.

(d) Chief Officers shall use the financial system as the main method of monitoring expenditure and income in their Directorates and for comparing spending against Directorate Budget. Chief Officers shall keep such subsidiary information and records as are necessary to monitor effectively expenditure, income and commitments, and to support any required returns.

(e) Chief Officers shall provide all relevant information deemed necessary to compile the Council's annual accounts in accordance with guidance issued by the Chief Finance Officer.

12.6.76 **When should Chief Officers discuss changes to systems and procedures with the Chief Officer responsible for Internal Audit?**

Chief Officers shall ensure that new systems and procedures for maintaining financial and non-financial records or records of assets, or changes to such

arrangements, are discussed with the Chief Finance Officer prior to implementation.

Financial Procedures

12.6.77 **What are Chief Officers' responsibilities in relation to financial procedures?**

Chief Officers are responsible for promoting the financial management standards set by the Chief Finance Officer in their service areas and monitoring adherence to the standards and practices, liaising as necessary with the Chief Finance Officer. All Chief Officers shall promote sound financial practices in relation to the standards, performance and development of staff in their Directorates.

12.6.78 **What are the Chief Finance Officer's responsibilities in relation to financial administration?**

(a) The Chief Finance Officer shall be responsible for keeping the principal accounting records for all Directorates of the Council.

(b) The Chief Finance Officer shall ensure that the accounts and accompanying reconciliations are properly prepared and presented for audit in accordance with relevant guidelines and statutes.

(c) All accounts, financial records, including computerised records and financial administration procedures shall be kept in a form approved by the Chief Finance Officer.

(d) After conferring with relevant Chief Officers, the Chief Finance Officer shall issue instructions as are deemed necessary to carry out the day-to-day financial work of the Council.

(e) Prior to introducing, amending or discontinuing any record or procedure relating to financial transactions or accounting in their Directorate, Chief Officers shall consult the Chief Finance Officer.

12.6.79 **What are Officers' responsibilities in relation to financial administration?**

Chief Officers and Budget Holders shall comply with accounting guidance provided by the Chief Finance Officer and will supply them with information when required to support proper financial administration.

Unofficial (Trust) Funds

12.6.80 **What is an 'unofficial fund'?**

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 due to their employment by the Council or by, for instance, the Governors of a school or other semi-autonomous body.

12.6.81 **How are unofficial funds managed?**

(a) Relevant Chief Officers shall be responsible for the immediate control of unofficial funds within or relating to their Directorate.

(b) The Chief Finance Officer shall be informed of the existence of all unofficial funds and shall issue and update accounting instructions for them where necessary.

Banking, Income and Treasury Management

12.6.82 **How is financial control exercised?**

Proper administration of bank accounts is fundamental for financial control. All income collection systems must provide for prompt recording of both cash and credit and the prompt banking of all receipts. Income is vulnerable if not adequately and effectively controlled.

Banking

12.6.83 **What are the Council's banking arrangements?**

(a) All arrangements concerning the opening, closing and operation of the Council's bank accounts shall be notified to the Chief Finance Officer. All bank Mandates shall be signed by the Chief Finance Officer or their nominated representative.

(b) All banking arrangements, including automatic debiting or payments, and additional banking services (for example, credit/debit cards) will be under the control of the Chief Finance Officer and their Directorate.

(c) Each bank account operated by the Council shall bear an official title and in no circumstances shall an account be opened in the name of an individual except in respect of an account in the name of the Returning Officer for the Middlesbrough Constituency.

Treasury Management

12.6.84 **What is treasury management?**

Treasury management involves the management of the Council's cash flows, borrowings and treasury investments, and the effective control of the risks associated with those activities.

12.6.85 **What are the treasury management requirements for the Council?**

(a) The Council is required to have regard to CIPFA's Treasury Management Code ('TM Code'). Accordingly:

(i) The Council will create and maintain, as the cornerstones for effective treasury and investment management:

(i) a treasury management policy statement stating the policies, objectives and approach to risk management of its treasury management activities;

(ii) suitable treasury management practices (TMPs) setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities;

(iii) investment management practices (IMPs) for investments that are not for treasury management purposes.

The content of the policy statement, TMPs and IMPs will follow the recommendations contained in sections 6, 7 and 8 of the TM Code, subject only to amendment where necessary to reflect the Council's particular circumstances. Such amendments will not result in the Council materially deviating from the TM Code's key principles.

(ii) The Executive and the Audit Committee will receive reports on the Council's treasury and investment management policies, practices and activities, including an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close in the form prescribed in the TMPs and IMPs.

(iii) The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Executive, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation's policy statement, TMPs and IMPs, and if they are a CIPFA member, CIPFA's Standard of Professional Practice on treasury management.

(iv) The Council nominates the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies. Audit Committee will review and comment on the Council's Treasury Management Strategy before it is submitted to Full Council for approval.

(b) All money received by the Council shall be aggregated for the purpose of treasury management and shall be under the control of the Chief Finance Officer.

12.6.86 **In what name are the Council's borrowings to be effected?**

All borrowings and investments shall be effected in the name of Middlesbrough Borough Council.

12.6.87 **Who is the registrar for stocks, bonds and mortgages?**

The Chief Finance Officer shall be the registrar for all stocks, bonds and mortgages of the Council and shall maintain records of all transactions relating thereto, and of all borrowings of money by the Council.

Income

12.6.88 **What are the Council's arrangements for income collection?**

(a) Notwithstanding that income may be collected by another Officer, all arrangements for the collection of income due to the Council shall be agreed with the Chief Finance Officer. Chief Officers shall maintain records of all income transactions in a form agreed by the Chief Finance Officer.

(b) The Chief Finance Officer shall set out the arrangements necessary to ensure that all monies due to, and received by, the Council are banked promptly.

(c) The Chief Finance Officer will set the requirement for all receipt forms, books, tickets and other such items, with which Officers must comply. Every issue of any such document shall be acknowledged by the signature of the Officer to whom the issue is made. No Officer shall give a receipt for any money received on behalf of the Council on any form other than an official receipt form or ticket.

(d) All sums received by Officers shall be paid over promptly to the Chief Finance Officer, or by arrangement, to the Council's bankers. No deduction should be made from such money, unless specifically authorised by the Chief Finance Officer. Personal cheques must not be cashed out of collections.

(e) The Chief Finance Officer shall be notified as early as possible of all money due to the Council under contracts, or any other arrangements which would involve the receipt of money by the Council and shall have access to the original documents or relevant particulars.

Debt Management

12.6.89 **What is the Council's process for managing debts?**

(a) Where the Council is delivering works, goods or services, Chief Officers should, in the first instance, seek payment in advance or at the point of delivery. Only where this is not possible should an invoice be raised.

(b) Where income is due to the Council in respect of work done, goods supplied, or services rendered but not paid for in advance or at the point of service provision, Chief Officers must ensure that invoices are issued promptly and accurately in respect of any amount due. Chief Officers should ensure that full details of the debtor and the work, goods or services are recorded accurately.

(c) The Chief Finance Officer will establish performance management systems to monitor the recovery of income and flag instances of delayed or non-recovery.

(d) Evidence of any debt shall be retained by Chief Officers for an appropriate period in accordance with the Council's document retention policies.

(e) All Chief Officers have a responsibility to collect debts which they have originated by providing any further information requested by the debtor and pursuing the debt on the Council's behalf.

(f) Where Chief Officers are unable to collect debts as set out above, the Chief Finance Officer and the Monitoring Officer shall take all reasonable steps to obtain recovery of debts (involving debt collection agencies and / or Court proceedings as appropriate).

12.6.90 **When will bad debts be written off?**

If, in the course of collecting debt, it becomes apparent that:

(a) full payment or repayment is unlikely to be made;

(b) continued recovery action is ineffective or not economic; and / or

(c) any possible arrangement will not lead to the debt being settled within a realistic and reasonable timeframe,

the Council will write off the debt to reflect income prudently within its accounts. This does not necessarily mean that the Council will stop pursuing the debt. In the event that a written off debt is subsequently recovered, it will be written back as income into the Council's accounts upon receipt.

12.6.91 **Who has authority to write off a debt?**

(a) The Chief Finance Officer (or their nominated deputy) has the authority to approve write offs of unpaid debts up to the limit set out in the Financial Limits Annex at Table 11 per individual debt subject to agreement from the relevant Budget Holder, Legal Services and the relevant Finance Business Partner that:

(i) there is no realistic chance of recovering the debt; or

(ii) it is considered uneconomical to attempt debt recovery.

The Chief Finance Officer has the overriding authority to approve or reject write offs if agreement cannot be reached between the various parties.

(b) Any individual debts over the limit set out in the Financial Limits Annex at Table 11 must be approved by the Executive, subject to the recommendation of the Chief Finance Officer.

12.6.92 **Where are bad debts allocated?**

Write off of irrecoverable debts will be charged to the relevant budget code where the debt was first raised, unless otherwise agreed by the Chief Finance Officer.

12.6.93 **What happens if a debt is not recovered within three years?**

Credit balances, which are over three years old, and which cannot be substantiated or justified, will be released to the relevant fund after the closure of accounts of each year, subject to formal approval by the Chief Finance Officer.

12.6.94 **How are bad debts accounted for?**

(a) The Chief Finance Officer will determine the criteria for calculating how much to provide for outstanding debts in relation to their age and type in consultation with the relevant Budget Holders and Legal Services, and in line with relevant accounting standards.

(b) Bad debt provisions will be recalculated based on the latest debt levels and types on at least a quarterly basis. The impact of increases or decreases required to the general bad debt provision will be charged to the General Fund.

(c) Each year, consideration will be given as to whether any budget provision should be made to account for the potential impact of bad debt on the Council's Revenue Budget in the coming year. This will be approved as part of the annual Budget setting process. Any savings realised against this budget provision will be transferred to reserves.

12.6.95 **How are bad debts reported?**

The year-end financial outturn report will provide a summary of all irrecoverable debt written off during the year.

Closing of Accounts

12.6.96 **What is the process for closing the Council's accounts?**

(a) The Chief Finance Officer shall be responsible for the production and publication of the Council's year-end accounts and financial statements

in the form, and according to the timetable, required by applicable legislation and guidance.

(b) The Chief Finance Officer shall provide all relevant Officers with guidance on the production of year-end accounts and financial statements. This guidance shall detail the timetable for production of the final accounts, the information and action required from each Directorate and any other details necessary to ensure that Officers are able to discharge their responsibilities under this section.

(c) The Chief Finance Officer shall present the Statement of Accounts for the year in question to the Audit Committee and the Council's External Auditors as early as possible.

(d) Chief Officers and Budget Holders must comply with accounting guidance provided by the Chief Finance Officer and supply information when required in relation to the closing of accounts.

(e) The Chief Finance Officer shall retain, in safe custody, copies of the audited Statement of Accounts including the External Auditor's signed certificate and opinion. The Statement of Accounts will be published as soon as possible on the Council's website, following certification by the Chief Finance Officer, and then made available for public inspection in line with applicable legislation.

Contracts and Purchasing

12.6.97 **What are the rules that apply to contracts and purchasing?**

(a) Officers authorised to commit the Council to current or future expenditure are expected to act responsibly and demonstrate that the arrangements and procedures followed comply with the Council's instructions.

(b) All contracts, agreements and purchases are subject to the requirements of the Procurement and Contract Procedure Rules at paragraph 12.7, and the procedures and financial limits which they prescribe.

(c) Before entering into purchasing commitments, Chief Officers and Budget Holders shall ensure that the estimated cost is covered by financial provision in the budget to which it relates.

(d) Official orders and official purchasing/procurement cards must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

Orders For Work, Goods and Services

12.6.98 **What form should orders for work, goods and services take?**

Official orders shall be in a form approved by the Chief Finance Officer and released only by Officers authorised by the appropriate Chief Officer. All official orders issued by a Directorate shall be the responsibility of that Chief Officer. An up to date list of authorised Officers shall be maintained by Chief Officers and a copy sent to the Chief Finance Officer. Any changes to the list of authorised officers shall be notified to the Chief Finance Officer immediately.

12.6.99 **When are official orders required?**

(a) Official orders shall be issued for all goods, work and services except where the Council enters into a formal contract with a supplier made for supplies of utility services, periodic payments such as rents or rates, for petty cash purchases or such other exceptions as the Chief Finance Officer may approve.

(b) All goods, equipment etc. ordered on official order forms should be for the Council's own use.

12.6.100 **How may official orders be amended?**

Any subsequent variations or amendments to official orders shall be approved by an authorised Officer, linked to the original record.

Contracts

12.6.101 **How are contracts arranged and managed?**

(a) These Financial Procedure Rules with regard to contracts shall be read in conjunction with the Procurement and Contract Procedure Rules at paragraph 12.7.

(b) All Chief Officers should ensure that adequate and effective systems and procedures are operated for arranging and managing contracts and agreements having regard to advice and guidance from the Chief Finance Officer on financial aspects. This includes the financial vetting of contracts where appropriate.

12.6.102 **What specific issues relate to contracts for the provision of social care by independent providers?**

Contractual agreements for the provision of social care between the Council and independent sector providers shall take into account the following specific issues:

(a) the need to reflect a high degree of client, carer and client's family's involvement in contracting arrangements;

(b) The need for a long term service relationship avoiding regular changes in service provider, particularly in the case of long term residential care; and

(c) the involvement of potential providers, such as small charities or voluntary organisations, who may have limited experience and resources to cope with complex contracting and tendering arrangements.

12.6.103 **What are the requirements for contracts in relation to borrowing, leasing and property etc.?**

(a) Any contract or agreement involving a charge upon assets or property must be forwarded to the Monitoring Officer for signature on behalf of the Council.

(b) Except on the instruction of the Chief Finance Officer, no other Officer shall enter into any agreement or contract involving the borrowing of funds, leasing of equipment, credit arrangement, hire purchase agreement, insurance contract, or the investment of Council monies; nor the authorising of any direct debit to be charged against the Council's bank accounts (except as agreed and authorised by the Chief Finance Officer).

(c) Except as agreed by the Executive, no officer may raise money by securing any legal charge or claim upon the buildings, property or any other asset or interest of the Council.

12.6.104 **What form should contracts take?**

The content and form of contracts and agreements must be approved by Legal Services before finalising by any Chief Officer on behalf of the Council.

12.6.105 **What are the insurance and risk management requirements for contracts?**

Prior to entering into any contract, Chief Officers will fully consider all insurance and risk management implications, and where necessary seek appropriate advice from the Chief Finance Officer.

Payment of Accounts

12.6.106 **Who is authorised to make payments on account?**

The Chief Finance Officer has authority to pay all amounts to which the Council is legally committed out of the Council's bank account, after authorisation of invoices for payment by the appropriate Budget Holder in accordance with these Financial Procedure Rules.

12.6.107 **Who should authorise invoices?**

Unless alternative arrangements have been agreed and approved by the Chief Finance Officer, the appropriate Chief Officer responsible for issuing an order, or an Officer nominated by them, shall authorise all invoices.

12.6.108 **When may the Council make payments in advance?**

(a) As a general rule, the Council will not make payment in advance of works, goods or services being delivered and / or received. The only circumstances where payment in advance may be appropriate are as follows:

(i) for software licenses or IT arrangements;

(ii) for bonds or rent payable in advance;

(iii) where specifically advised by Legal Services or Strategic Commissioning & Procurement as part of the contractual arrangements.

(b) If there is any uncertainty as to whether a payment may be made in advance, the advice of the Chief Finance Officer must be sought. If payments in advance cover multiple financial years, then a financial appraisal of the relevant supplier should be undertaken and kept under periodic review as part of contract management arrangements.

Purchase Cards

12.6.109 **How and when are purchase cards used by the Council?**

(a) Purchase cards allow goods and services to be purchased and charges made to the Council electronically. These must be minor in nature. Any purchase of over £100 should be made via the normal purchasing route in accordance with the Procurement and Contract Procedure Rules, unless there is a pre-determined reason otherwise which has been agreed with the Chief Finance Officer or their nominated representatives.

(b) Purchase cards are for business use only and must not be used by staff for personal purchases. Officers and Members must arrange the use of a purchase card with Strategic Commissioning & Procurement and must comply with the Purchase Cards Scheme, as determined by Chief Finance Officer, in relation to its use.

(c) All purchases made with a Council purchase card must demonstrate Value for Money and should be supported by a VAT receipt, where relevant. If there is any doubt about whether a VAT receipt is required, clarification should be sought from the Council's VAT Officer.

(d) Any purchases made using a purchase card will be reviewed by relevant Finance Business Partners and any items purchased with a purchase card that do not comply with the Purchase Cards Scheme, will be raised with the appropriate Budget Holder.

F: Employee and Personnel Matters

12.6.110 **Who is responsible for making arrangements for paying employees?**

(a) The largest element of Council expenditure is the cost of staff. Reliable and timely information is required to ensure that only genuine employees are paid in accordance with their proper entitlement. Failure to apply taxation and national insurance regulations correctly to all payments could incur significant financial penalties.

(b) The payment of salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council and allowances to Members shall be made by the Chief Finance Officer or under arrangements approved and controlled by the Chief Finance Officer.

(c) For the avoidance of doubt, the Chief Officer with responsibility for HR is responsible for operational matters in relation to employees and is responsible for the Council's payroll function.

12.6.111 **What are Chief Officers' responsibilities in relation to employees?**

(a) All Chief Officers shall ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.

(b) All Chief Officers shall ensure that salaries, wages, pensions etc. are processed only through the payroll system. Careful consideration should be given to the employment status of individuals employed on a self-employed, consultant or sub-contract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Chief Officer with responsibility for HR and the Chief Finance Officer.

(c) All timesheets and other pay documents shall be submitted through the Council's HR team and will be approved by the relevant Chief Officer, or their representative Budget Holder.

(d) All Chief Officers shall determine which Officers from within their Directorate are authorised to certify salaries and wages documents.

These will be in line with the Council's budget management arrangements and will be verified by the HR team.

(e) All relevant records and other pay documents shall be submitted to HR in accordance with timetables and deadlines determined by the Council.

12.6.112 **What is the process for approving expenses and allowances?**

(a) The Chief Officer with responsibility for HR shall be responsible for making arrangements for the administration and regulation of claims for expenses and allowances to employees and members of the Council and its committees and other approved bodies. The Chief Officer with responsibility for Democratic Services shall be responsible for monitoring the budget for Member's expenses.

(b) Certification of Officers' travel and subsistence claims, by or on behalf of a Directorate, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, expenses properly incurred and that the allowances are payable by the Council.

G: External Arrangements

Partnerships and External Bodies

12.6.113 **Why does the Council work with partnerships and outside bodies?**

Partnerships and other external bodies are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Council works in partnership with others: public agencies, private companies, community groups and voluntary organisations. It still delivers some services, but its distinctive leadership role is to bring together the contributions of the various stakeholders.

12.6.114 **How are Council functions delegated to external bodies?**

(a) The Executive is responsible for approving delegations of Executive Functions, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

(b) The Executive can delegate functions, including those relating to partnerships, to Officers. These delegations are set out in the Scheme of Delegation at Section 10. Where functions are delegated, the Executive remains accountable for them to Full Council.

12.6.115 **Who represents the Council on external bodies?**

Save as otherwise set out in this Constitution, the Head of Paid Service represents the Council on partnership and external bodies, in accordance with the Scheme of Delegation.

12.6.116 **What are the financial governance arrangements for external bodies?**

(a) The Chief Finance Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.

(b) The Chief Finance Officer must ensure that the accounting arrangements to be adopted for partnerships and joint ventures are satisfactory. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. The Chief Finance Officer must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

(c) Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

Council-Owned Companies

12.6.117 **Why might the Council have a company to deliver services?**

(a) The Council recognises that a mix of different service delivery and business models are necessary to improve services and maximise value for money. Different service delivery models are available to the Council including the establishment of trading companies.

(b) Further information in relation to Council-owned companies is contained in Section 11.

12.6.118 **When may the Council establish a Council-owned company?**

(a) The Council will not establish a Council-owned company without the approval of the Executive. Any proposal to the Executive in support of establishing a Council-owned company must set out:

(i) the short- and long-term financial implications of setting up the company;

(ii) a comprehensive risk assessment;

(iii) an explanation of how setting up the company contributes to the Council's strategic aims and objectives;

(iv) the legal basis for establishing the company;

(v) the proposed governance arrangements for the company, including how the Council will manage the client-side arrangements;

(vi) a business plan for the company; and

(vii) the exit strategy for the arrangement.

(b) Regard must always be had in relation to such proposals to any State Aid implications that might arise as a result of the provision of such benefits.

12.6.119 **What are the financial arrangements for Council-owned companies?**

(a) The Chief Finance Officer is ultimately responsible for the financial management of all Council-owned companies and will set the financial governance and accounting procedures for Council-owned companies.

(b) Where the Council owns shares, or in some cases the share, in an external entity a shareholder representative will ordinarily be appointed. Currently the power to appoint the shareholder representative rests with the Mayor.

(c) Council Officers, with the exception of the Chief Finance Officer, the Monitoring Officer, and their deputies, may serve as directors on the board, or as company secretary of a Council-owned company.

(d) The principal responsibility for the financial management of Council owned and controlled entities is of the finance director, board of directors and other staff and officers of the entities. However, given the requirement for the Council to prepare and publish consolidated accounts referencing such entities and the responsibilities of the Chief Finance Officer as to proper accounting practices and protection of the Council's financial position, the Chief Finance Officer is authorised to exercise such control as is appropriate and lawful in relation to the proper financial management of such entities. This includes recommending to such entities the embedding of and compliance with appropriate accounting arrangements and the adoption of appropriate financial regulations.

(e) No grant, loan, credit or other form of assistance, financial or otherwise, shall be provided to any owned or controlled entities outside the approved business plan other than with the prior agreement of the Chief Finance Officer and, where the transaction represents a key decision, Executive approval.

(f) The Council will comply with all applicable legislation and guidance in relation to any Council-owned company, including the CIPFA local authority owned companies good practice guide.

Pension Fund

12.6.120 **What is the Pension Fund?**

(a) The Local Government Pension Fund is the pension scheme for local government employees. It is administered locally by pension funds in England and Wales. The Council is an 'Administering Authority' for the Pension Fund.

(b) As an Administering Authority, the Council is responsible for managing and administering the Pension Fund in relation to those people for whom it is the Administering Authority.

12.6.121 **What are the Chief Finance Officer's delegated powers in relation to the Pension Fund?**

The Chief Finance Officer is authorised to manage the Pension Fund on a day-to-day basis, including the exercise of the Council's functions as Administering Authority, the power to seek advice from professional advisers, and to devolve the handing of the Pension Fund's investment to appropriate fund managers.

12.6.122 **What is the role of the Teesside Pension Fund Committee?**

The role of the Teesside Pension Fund Committee is set out in Part B of Section 10 of the Constitution.

H: Financial Limits Annex

12.6.123 **What is the Financial Limits Annex?**

This annex sets out the limits that apply to financial decisions within the Council, as referenced within this Constitution. The financial limits set out in this Annex apply to the Financial Procedure Rules as if they were written out into those Regulations.

12.6.124 **Who will advise on the contents of this annex in the event of uncertainty?**

Advice on the application of the financial limits set out in this annex should be sought from the Chief Finance Officer or their deputy.

12.6.125 **Can the financial limits change?**

The financial limits set out in this Financial Limits Annex may change over time and advice should be sought from Finance on the current applicable financial limits.

12.6.126 **What is the threshold for approval of decisions?**

The financial threshold for Key Decisions is £250,000, as set out in paragraph 13.11.1. For the avoidance of doubt, any decision that will have a financial impact in terms of expenditure or savings in excess of £250,000 will be a Key Decision.

12.6.127 **What is a significant financial impact?**

A "significant" financial impact:

(a) exceeds £250,000; or

(b) is 10% or more of the total project budget / relevant financial amount; and / or

(c) would represent a change in the anticipated outcomes.

12.6.128 **What are the limits on external funding approvals?**

The following financial limits apply to approval of external funding applications:

(a)	Chief Finance Officer	up to £250,000
(b)	Executive	above £250,000

12.6.129 **When will a bond be required?**

For the purposes of paragraph 12.7.68 of the Procurement and Contract Procedure Rules, a bond will be required where the Total Value of a contract exceeds £250,000, inclusive of VAT.

12.6.130 **When will a parent company guarantee be required?**

For the purposes of paragraph 12.7.69 of the Procurement and Contract Procedure Rules, a bond will be required where the Total Value of a contract exceeds £250,000, inclusive of VAT.

12.6.131 **How are assets disposed of?**

The following thresholds apply to the disposal of assets by the Council for the purposes of paragraph 12.6.53 of the Financial Procedure Rules:

Total value or stocks / stores or assets	**Disposal Procedure**
Up to £1,000	Two written Quotations or public auction

£1,000 to £100,000	At least three written Quotations or public auction
Above £100,000	Invitation to Tender to at least four Bidders or public auction with a reserve price

12.6.132 **What are the financial limits for virements?**

The thresholds for virement are set out in Table 11.

Table 11: Financial Limits Annex

Authority / Transaction	Council	Executive	Chief Finance Officer	Chief Officer	Deputy Chief Officer
Debt write-off					
Council tax debt Sundry debt	Unlimited	Above £10,000	To £10,000	n/a	n/a
Business rates debt	Unlimited	Above £100,000	To £100,000	n/a	n/a
Subscription debt	Unlimited	Above £50,000	To £50,000	n/a	n/a
Virement					
Revenue virement within service	Unlimited	Above £250,000			To £250,000 in consultation with the Chief Finance Officer
Revenue virement or reallocation within directorate	Unlimited	Above £250,000		To £250,000 in consultation with the Chief Finance Officer	To £250,000 in consultation with the Chief Finance Officer
Revenue virement within directorate	Unlimited	Above £250,000			To £250,000 in consultation with the Chief Finance Officer
Capital budget virement (including underspends)	Unlimited	Above £250,000		To £250,000 in consultation with the Chief Finance Officer	

12.7 Procurement and Contract Procedure Rules

This section sets out the Council's Procurement and Contract Procedure Rules, which govern how the Council purchases goods and services. They are organised as follows:

A - Introduction

B - Roles and Responsibilities

C - Application of Procurement and Contract Procedure Rules

D - Contract Values

E - Preparing for Procurement

F - Procurement Process

G - Mechanisms for Formal Tendering

H - Tenders and Quotations

I - Contract and other Formalities

J - Life of the Contract

K - Other Types of Contracts

L - Exemptions

M – Procurement Thresholds

Annexe 1 – Letting of School Based Contracts

A: Introduction

12.7.1 What are the Procurement and Contract Procedure Rules?

(a) The Procurement and Contract Procedure Rules ('PaCPR') outline the process to be followed to promote good purchasing practices within the Council, ensure public accountability, secure value for money, and deter corruption. Following the PaCPR is the best defence against allegations that a purchase has been made incorrectly or fraudulently and the best way to demonstrate cost-effectiveness.

(b) Officers must comply with these PaCPR when making any purchase. They lay down the minimum requirements applicable for any purchase and Officers should note that a more thorough procurement procedure may be appropriate for a particular purchase. The Strategic Commissioning and Procurement team will provide advice on when this is the case.

(c) These PaCPR form an essential part of the Council's Constitution, and where they apply, compliance is mandatory. All Officers should ensure that they are familiar with these Rules. Non-compliance with the Procurement and Contract Procedure Rules is a disciplinary matter.

(d) Where reference is made to the Procurement Act 2023, it must be complied with. Officers should seek further guidance from the Strategic Commissioning and Procurement team and / or Legal Services if they are unsure about the application of the Procurement Act 2023.

(e) These PaCPR apply to all purchases (i.e. all spend) made by the Council, whether a formal contract is entered into or not.

12.7.2 What is the purpose of these Procurement and Contract Procedure Rules?

(a) The Council is required to set out Procurement and Contract Procedure Rules (PaCPR) that govern how they procure contracts for the supply of goods and services and for the execution of works, which provide for a mechanism by which the Council will ensure that contracts are tendered competitively, and that the Procurement Act 2023, and other applicable legislation, is complied with.

(b) The intention of these PaCPR is to ensure that the Council:

(i) obtains Value for Money and Best Value;

(ii) avoids and prevents corruption or the suspicion of it;

(iii) is fair and equitable in the treatment of all bidders;

(iv) is transparent in how it conducts its procurement activities in accordance with the Procurement Act 2023;

(v) seeks to reduce disadvantage, advance equality and promote community cohesion as defined in the Equality Act 2010;

(vi) makes every effort to promote local businesses, including small and medium-sized enterprises;

(vii) promotes Social Value[169]; and

(viii) supports the Council's corporate and service aims and policies (to the extent compatible with the above).

(c) Where a person who is not an Officer is required to make purchasing decisions or manage contracts on behalf of the Council (for example,

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169 Public Services (Social Value) Act 2012

agency staff), the contract engaging that person should include a condition that these PaCPR apply to that person as if they were an Officer.

(d) Unless specific grant terms require otherwise, these PaCPR apply to any procurement made using funds received from external sources. Where grant conditions prescribe a particular procurement route, that route will be followed (provided it is compliant with the Procurement Act 2023 and other applicable legislation).

(e) Any breach or non-compliance with these PaCPR should be dealt with in accordance with paragraph 12.7.3.

Breach of Procurement and Contract Procedure Rules

12.7.3 What are the consequences of breaching these Procurement and Contract Procedure Rules?

(a) Failure to comply with the PaCPR will be classed as a breach and may result in disciplinary action being taken.

(b) It will be the responsibility of all Officers to address non-compliance swiftly and in the most appropriate way according to the circumstances.

(c) Any breach of, or non-compliance with, these PaCPR must, on discovery, be reported immediately to the Deputy Chief Officer with responsibility for Commissioning and Procurement via the submission of a Breach Report. The report will be reviewed and appropriate consultation undertaken with relevant Officers. The outcome report will be submitted to the Chief Officer with responsibility for Internal Audit. They will work collaboratively and in line with the breach process to decide what action will be taken and will manage and mitigate any significant risk of harm to the Council's interests, which could result in a disciplinary investigation and / or reporting of findings to the Chief Finance Officer.

(d) Officers may also raise concerns relating to breach or suspected breach of, and non-compliance with, these PaCPR anonymously in line with the Council's Whistleblowing Policy and Procedure.

(e) Officers should remain alert to fraud throughout the procurement life cycle and any concerns of fraud or corruption must be reported at the earliest opportunity to the Deputy Chief Officer with responsibility for procurement by emailing procurement@middlesbrough.gov.uk. They will decide whether the matter should be escalated.

(f) Officers must follow the Officer Code of Conduct in respect of any procurement activity.

12.7.4 What is the role of Councillors in procurement activities?

(a) Councillors are not permitted to take part in the procurement process, and they must ensure that their actions do not compromise or impact on due process in relation to any Council procurement.

(b) Concerns related to Councillor intervention in procurement activities may be subject to Standards Committee investigation.

12.7.5 How are breaches of these Contract Procedure Rules reported?

Reports on the number of confirmed breaches of these PaCPR will be sent by the Deputy Chief Officer with responsibility for procurement to the Chief Finance Officer on a quarterly basis.

Emergency Situations

12.7.6 How do these Procurement and Contract Procedure Rules apply in emergency situations?

Where the Head of Paid Service exercises their power under paragraph 10.25.4 in an emergency, any contract awarded above threshold will be done so in line with the urgency requirements as detailed in the Procurement Act 2023.

Amendment and More Information

12.7.7 How are these Procurement and Contract Procedure Rules amended to reflect changes in legislation?

The Chief Finance Officer shall have the power to make technical amendments from time to time to make these PaCPR consistent with legal requirements, changes in Council structures and personnel, and best practice, after consultation with the Head of Paid Service, the Monitoring Officer, and the Chair of the Council.

12.7.8 Where can I find more information and guidance about the Council's procurement procedures?

In addition to these PaCPR, the Council has in place further information and guidance about its procurement procedures which can be found on the Councils intranet page for employees and the Council's website for the public.

B: Roles and Responsibilities

12.7.9 What are the general responsibilities of Officers in relation to purchasing?

(a) Officers must ensure:

(i) that they comply with:

a. these Procurement and Contract Procedure Rules;

b. the Financial Procedure Rules (see paragraph 12.6)*;*

c. the Officer Code of Conduct (see paragraph 9.13)

d. all applicable legal requirements in force from time to time;

(ii) any purchasing activity they undertake supports the Council's strategic aims and objectives;

(iii) appropriate records of procurement activities are kept as required by PaCPR;

(iv) advice is sought from the Strategic Commissioning and Procurement team;

(v) appropriate supplier due diligence is completed;

(vi) proper Tender processes are followed in accordance with Section H of the PaCPR;

(vii) they declare any relevant conflict of interest in relation procurement processes;

(viii) the correct authorisations and approvals are obtained in accordance with the Scheme of Delegations (see further Section 10) and the Council's formal decision-making processes (see Section 13); and

(ix) where appropriate, any agent, consultant or contractual partner acting on behalf of the Council complies with the above.

(b) Chief Officers must ensure that their staff comply with this paragraph 12.7.9.

(c) Chief Officers must ensure that their staff complete the Council's Corporate Contract Register for all contracts entered into by their Service Area. Deputy Chief Officers must ensure that their staff notify the Strategic Commissioning and Procurement team of all contracts progressed by their Service to enable Strategic Commissioning and Procurement to enter the relevant information on the Council's contracts register.

12.7.10 What are the specific responsibilities of Officers and Members?

The responsibilities in respect of procurement and contracts are as follows:

(a) **Chief Officer**:

(i) Ensuring own compliance with the PaCPR and applicable legislation and guidance;

(ii) Ensuring compliance of staff for which they are responsible with these PaCPR and applicable legislation and guidance;

(iii) Approval of commercial business case, route to market strategy and contract management arrangements in accordance with these PaCPR;

(iv) Ensuring that Contract Award decisions are made in accordance with the Council's Constitution and any scheme of sub-delegation;

(v) Engaging in a timely manner with Strategic Commissioning and Procurement to develop a procurement pipeline, maintain the contracts register and identify a named contract manager for each contract awarded.

(b) **Deputy Chief Officer with responsibility for Commissioning and Procurement:**

(i) Ownership of these PaCPR.

(ii) Ensuring that the governance and assurance framework for commercial considerations is complied with robustly and effectively across the Council.

(c) Responsible Officers:

(i) Ensuring that projects involving procurement are managed effectively to ensure compliance with the PaCPR;

(ii) Ensuring there is a genuine and legitimate business requirement for the spend and an approved budget;

(iii) Ensuring that appropriate governance is exercised over decisions to approve expenditure;

(iv) Drafting a fit for purpose specification that includes appropriate contract management arrangements;

(v) Supporting the definition of an appropriate route to market for each contract and ensuring that it is followed and that any deviation from the approved approach is justified;

(vi) Making a genuine estimate of total contract value over the contract term before commencing any procurement activity;

(vii) Conducting procurement activities and contract modifications and extensions for contracts in accordance with the Procurement Thresholds set out at Section M of these PaCPR.

(viii) Engaging with the Strategic Commissioning and Procurement team for any Above Threshold Procurement.

(ix) Seeking guidance from the Strategic Commissioning and Procurement team on the application of these PaCPR and applicable legislation to contracts.

(d) Executive Members:

(i) Making strategic decisions in line with the Constitution, including the Budget and Policy Framework at Section 15 within which procurement plans are developed and implemented;

(ii) Complying with these PaCPR to the extent that they have specific procedural responsibilities.

(iii) Ensuring compliance with the Member Code of Conduct, including in relation any interest they may have.

(iv) Ensuring that they are not involved in the commissioning and / or procurement processes that operate in the Officer domain.

(e) Strategic Commissioning and Procurement Team

(i) Overall strategic ownership of procurement and commercial activity on behalf of the Council.

(ii) Engaging proactively with services to determine the procurement pipeline and how this is facilitated in a proportional and timely manner.

(iii) Supporting services in assessing the commercial considerations of planned procurements at the design stage, including drafting of the route to market strategy and contract management arrangements.

(iv) Working with services to develop proportional and informed category strategies.

(v) Exploring options for using pre-existing public sector compliant contractual arrangements where this represents Best Value, including available Frameworks

(vi) Exploring opportunities for collaboration with other public sector bodies where appropriate.

(vii) Ensuring compliance with all applicable procurement processes, including under the Procurement Regulations.

(viii) Seeking to develop strategic opportunities for synergy between contracts to enable the Council to meet its Best Value duty.

C: Application of Procurement and Contract Procedure Rules

Relevant Contracts

12.7.11 To which Council contracts do these Procurement and Contract Procedure Rules apply?

(a) These PaCPR apply to every Relevant Contract entered into by or on behalf of the Council (e.g. by agency staff, agents or consultants), which includes contracts for:

(i) the purchase of all goods or materials;

(ii) the purchase of services, including professional services, interim and agency staff;

(iii) the purchase / order of works; and

(iv) contract management of third party spend.

(b) Where a contract or sub-contract covers works and the supply of goods, services and / or material, it will be treated as follows:

(i) as a works contract if more than 50% of its total value relates to works;

(ii) as goods / services if more than 50% of its total value relates to goods / services and / or materials.

12.7.12 When do these Procurement and Contract Procedure Rules not apply?

(a) These PaCPR do not apply to the following:

(i) procurement activity carried out by a Council maintained school under their own delegated budget and / or a school's own formal procurement and contractual rules (see further Annexe 1);

(ii) legal charges, awards and disbursements (including all associated costs and fees) in connection with any and all legal proceedings government by Civil Procedure Rules;

(iii) contract offers of employment which make an individual an employee of the Council;

(iv) settlement of insurance claim compensation;

(v) treasury transactions as outlined in the Council's Treasury Management Strategy;

(vi) non-contractual funding arrangements (including grant agreements under which the Council makes a grant to a third party, provided that the terms of the funding arrangements do not

constitute a contract, and a direct award can be made following approved Council grant processes). For the avoidance of doubt, where the Council is using grant monies itself or passing them onto a third party, these PaCPR will apply (along with any applicable grant conditions);

(vii) specific licensing requirements (for example, a television licence or public entertainment licence) or subscriptions to national organisations (for example, the Local Government Association);

(viii) contracts for the execution of either works (or provision of goods, services or material) where the Council has no discretion whether the works are required or who must deliver them (for example, works to be provide by a statutory undertaker);

(ix) services with a national remit where there are requirements to comply with purchasing arrangements set out by a funding body;

(x) appointment of external auditors outside the Council's control;

(xi) appointment of barristers or legal firms where, in the opinion of the Monitoring Officer, urgent advice is required to protect the interests of the Council;

(xii) membership or examination fees;

(xiii) disposal of goods and / or materials deemed surplus to the Council's needs.

(b) The above list is not exhaustive. If an Officer is unsure whether these PaCPR apply in any specific circumstances, they should seek advice from the Deputy Chief Officer with responsibility for Strategic Commissioning and Procurement.

(c) Officers must seek advice from the Deputy Chief Officer with responsibility for Strategic Commissioning and Procurement on the application of these PaCPR to any proposed direct award of a contract to a Council-owned Company.

Exemptions

12.7.13 When may the provisions of these Procurement and Contract Procedure Rules be waived?

(a) Chief Officers may request authorisation from the Chief Finance Officer to waive, suspend of change any provision of these PaCPR. Where an exemption applies, paragraph 12.7.34 will not apply, and the Council will be permitted to negotiate directly with one or more suppliers.

(b) Full details of how exemptions apply are contained in Section L at paragraph 12.7.84 onwards.

12.7.14 How are exemptions recorded?

The Deputy Chief Officer with responsibility for Commissioning and Procurement will maintain a register of all approved exemptions (see Section L of these PaCPR) and will monitor and report the use of exemptions for management control purposes.

12.7.15 When may an exemption not be used?

The provisions for exemptions are set out in Section L of these PaCPR (see paragraph 12.7.84 onwards):

(a) an exemption may not be used for Above Threshold Procurements;

(b) any attempt to seek retrospective approval of an exemption will be rejected and will be treated as a potential breach of these PaCPR.

(c) exemptions should not be used to circumvent these PaCPR.

12.7.16 What action must be taken in respect of an approved exemption?

If an exemption is approved Chief Officers must:

(a) ensure that a formal contract is entered into;

(b) undertake appropriate due diligence on the relevant supplier and proportionate contract management during the life of the contract;

(c) ensure that appropriate approval to award the contract has been given in accordance with the Scheme of Delegations;

(d) ensure that the value of the contract does not exceed the financial threshold for an Above Threshold Procurement and that no contract extension is sought.

D: Contract Values

12.7.17 Why is the value of a contract important?

(a) The Procurement Act 2023 sets out certain legislative financial thresholds, above which specific procurement rules apply.

(b) Procurement Thresholds are calculated based on the estimated Total Value of a contract over the contract term.

(c) The Procurement Thresholds in force from time to time are set out in Section M of these PaCPR.

12.7.18 How are estimated contract values calculated?

(a) Estimated contract values, inclusive of VAT, should be calculated on the basis of the whole life value (or estimated whole life value) for any purchase, including any anticipated contract extension. This value should be calculated as follows:

(i) **Fixed term contract** – the total price to be paid, or which could be paid, during the fixed term period.

(ii) **Contract for recurring transactions** of the same type – aggregated total value of those transactions over the expected life of the contract.

(iii) **Contracts for an uncertain duration** – monthly payment multiplied by 48.

(b) Any estimated contract value must be a genuine pre-estimate that factors in all associated costs (for example, any repair and maintenance required).

(c) Similar contracts with the same supplier should be aggregated across the Council. There must be no artificial disaggregation to avoid meeting a Procurement Threshold.

(d) Where a contract is being awarded as lots under a Framework, the Total Value of the contract is the Framework value and not the value of the individual lot. Contracts must not be sub-divided into smaller lots so as to avoid the requirements of these PaCPR.

E: Preparing for Procurement

Procurement Pipeline

12.7.19 What is the procurement pipeline?

(a) The Council requires all upcoming procurements that meet Key Decision thresholds to be recorded in a procurement pipeline, which forms part of the Council's Forward Plan. At the start of each financial year, the procurement pipeline is presented to the Executive for approval.

(b) The Procurement Act 2023 has specific requirements for the publication of a Tender Pipeline notice on the central digital platform and this will be actioned by the Deputy Chief Officer with responsibility for Commissioning and Procurement.

(c) Chief Officers and Responsible Officers should be mindful of the need to plan their procurements in advance and take reasonable steps to ensure that their required procurement activities are included in the Forward Plan.

12.7.20 When can a procurement not in the Forward Plan be added?

(a) If a procurement has not been approved by the Executive via inclusion in the annual Procurement Pipeline report a separate decision will be required to add the procurement to the pipeline.

(b) Responsible Officers should factor the timeframe for gaining such approval into their procurement planning.

Pre-Procurement Stage

12.7.21 What steps must be taken before the Council makes a purchase?

Before beginning a purchase, the Responsible Officer must:

(a) in a manner commensurate with the complexity and value of the purchase, complete a Procurement Request form, which includes the following considerations:

(i) ensure there is a service specification that clearly articulates the outcomes to be achieved;

(ii) take into account the requirements from any review;

(iii) appraise the need for the expenditure and its priority;

(iv) ensure there are no existing contract arrangements already in place that cover the requirement;

(v) define the objectives of the purchase;

(vi) assess the risks associated with the purchase and how to manage them;

(vii) consider what procurement method is most likely to achieve the purchasing objectives, including external or internal sourcing or accessing an existing contract, collaboration with other purchasers, partnering and long term relationships;

(viii) consider any data protection implications to the proposed purchase;

(ix) adhere to the provisions of the Social Values Act 2012 for eligible contracts and / or any associated charters; and

(x) consult users as appropriate about the proposed procurement method, contract standards, and performance and user satisfaction monitoring; and

(b) confirm that:

(i) there is authority for the expenditure and record the nature of the authority;

(ii) there is Executive approval for significant new proposals as required by the Financial Procedure Rules.

Make or Buy

12.7.22 What is "make or buy"?

(a) A "make or buy" decision relates to a choice of whether to manufacture or produce something in-house, or to procure it from an external third party.

(b) Before undertaking a new procurement, the following should be explored, and used as first choice where fit for purpose, available for use and able to demonstrate Best Value, in relation to the procurement:

(i) Use of internal Council Service(s) or establishment of such Service(s) where they don't currently exist;

(ii) Use of an existing compliant Council Framework;

(iii) Award of a contract to a Council-owned Company with Teckal status, establishing or implementing a public contract with another public sector entity or using another public sector body's Framework or contract.

(c) Responsible Officers should only instigate a procurement process (Invitation to Tender or Invitation to Quote) if the following conditions are met:

(i) The "make or buy" process outlined above should have been followed to ensure that the In-house Preferred Test does not apply.

(ii) It can be demonstrated that Best Value can be achieved through a competitive procurement process.

(iii) Sufficient time has been allowed to ensure required outcomes are achieved via a competitive procurement.

(d) For the avoidance of doubt, where sufficient time has not been allowed due to the actions or omissions of Officers, this will not be a valid reason for disapplication of these PaCPR.

Market Research and Consultation

12.7.23 When should the Council carry out pre-market research?

(a) The Procurement Act 2023 promotes the use of Preliminary Market Engagement (PME) in public sector procurement and this requires a PME notice to be published via the central digital platform.

(b) Engaging and consulting the market can help inform the procurement process and stimulate potential bidders. Where market research or consultation takes place, this should be in accordance with the Procurement Act 2023 where applicable.

(c) Responsible Officers should seek advice from the Strategic Commissioning and Procurement team if they are unsure about whether to carry out market research and / or how this should be done.

12.7.24 What pre-Tender market research and consultation is permitted?

Responsible Officers:

(a) may consult potential bidders prior to the issue of an Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided that this does not prejudice any potential Bidder; and

(b) must not seek or accept technical advice on the preparation of an Invitation to Tender or Invitation to Quote from anyone who may have a commercial interest in it, if this may prejudice the equal treatment of all potential Bidders or distort competition.

Equality Impact Assessment

12.7.25 What is an Equality Impact Assessment?

An “Equality Impact Assessment” is a tool that helps the Council to consider equality, diversity, cohesion and integration in its strategies, policies, services and functions. An Equality Impact Assessment involves assessing the likely (or actual) effects of policies on people in respect of protected equality characteristics including age, disability, race and sexual orientation.

12.7.26 When must an Equality Impact Assessment be carried out?

(a) An Equality Impact Assessment should be carried out before commencing any procurement activity, where appropriate.

(b) Responsible Officers must complete an Equality Impact Assessment form setting out the impact of the procurement on equality, diversity, cohesion and integration. Further guidance on Equality Impact Assessments can be obtained from the Strategic Commissioning and Procurement team.

Choice of Procurement Route

12.7.27 What procurement routes are available to the Council?

Depending on the nature and value of a contract, the Council has the following options for procuring works, goods, services and materials:

(a) **Direct Award** (under £10,000) – a contract can be awarded directly by the Relevant Officer ensuring value for money;

(b) **Quotations** – only suppliers invited by the Council may bid for the contract;

(c) **Open or Competitive Flexible tendering** (Above Threshold Procurements) – a contract opportunity is published, and all interested suppliers are invited to bid;

(d) **Framework** – a contract is awarded to a supplier who has pre-qualified to provide services under a framework agreement via either a mini-competition or direct award.

F: Procurement Process

This section sets out the procurement routes open to the Council and how they are used. Section M of the PaCPR sets out the applicable thresholds at which each procedure may be used.

Direct Award

12.7.28 What is a direct award?

Direct award allows the Council to award a contract to a contractor without a competition.

12.7.29 How is direct award used?

Direct award can be used for all types of contracts and is particularly relevant for minor projects and the procurement of professional service ensuring value for money.

Quotations

12.7.30 What is the Quotation process?

The Council will issue Invitations to Quote for procurements within the relevant Procurement Thresholds set out in Section M of these PaCPR.

Open and Competitive Flexible Tendering

12.7.31 What is open and competitive flexible tendering?

Open and Competitive Flexible tendering applies in accordance with the requirements of the Procurement Act 2023. The process to be followed is detailed under the necessary section of the Procurement Act 2023 and the

Strategic Commissioning and Procurement Team will work with the service area to ensure compliance.

Frameworks

12.7.32 How are Frameworks established?

(a) Frameworks maybe established in line with the Procurement Act 2023 requirements.

(b) When setting up a framework, consideration should be given to whether the contract can be sub-divided into lots. The reasoning should be recorded by the Strategic Commissioning and Procurement team where a contract is not sub-divided in this way.

(c) The Council may call off from its own Frameworks, or from those established by other public bodies and Crown Commercial Service.

(d) The Council may call off from a Framework directly or hold a call off competition among suppliers on the Framework but this must be in line with the framework instructions.

(e) Where a Framework has been validly approved and established by the Council, Chief Officers may (in accordance with the Scheme of Delegations and the Procurement Thresholds at Section M of these PaCPR) issue orders under that Framework, provided that they comply with the scope of the Framework and any conditions applicable to the Framework.

(f) The Framework will set out the terms of any call off competition, and the terms on which a successful supplier will be engaged.

(g) Frameworks should be monitored by Strategic Commissioning & Procurement to ensure that the total spend under any Framework does not exceed the total permitted.

(h) Contracts to be concluded by a call off from a Framework established by another public body shall be carried out in accordance with the rules for the operation of that Framework. Responsible Officers should ensure that the Council is eligible to participate in the Framework, taking advice from the Strategic Commissioning and Procurement team as necessary.

Route to Market

12.7.33 What are the pre-requisites for a procurement process to start?

(a) A procurement process should not be commenced unless:

(i) a genuine and timely pre-estimate of the Contract value has been completed in accordance with paragraph 12.7.18;

(ii) in the case of a contract for the execution of any works, a business case has been prepared, or Executive approval has been given;

(iii) there is an approved budget, or relevant approval by the relevant Chief Officer;

(iv) a strategy report (where applicable) has been approved;

(v) a contract manager has been identified for the contract; and

(vi) a Procurement Request Form has been completed.

(b) Consideration of the appropriate route to market shall include options for the Council to undertake its own procurement process or consider awarding contracts in line with the conditions of a compliant Framework available to the Council to use. Before considering the route to market, Responsible Officers should ensure that “make or buy” has been considered, as appropriate, in accordance with section 12.7.22.

(c) Responsible Officers shall, in conjunction with the Strategic Commissioning and Procurement team, consider the procurement procedures available to the Council with due regard to the Procurement Regulations. For an Above Threshold Procurement, the requirements set out in the Procurement Regulations must be followed strictly when selecting a route to market.

(d) For audit and transparency purposes, proportional details and records on justification of the chosen route to market should be kept by Strategic Commissioning & Procurement.

12.7.34 What are the competition requirements for purchases made by the Council?

(a) The competition requirements for any contract are determined by the Procurement Thresholds set out in Section M of these PaCPR. The procurement route for any contract will be as indicated in Section M.

(b) All Relevant Contracts must be subject to competition, unless an exemption applies in accordance with the provisions of Section L of these PaCPR, in an emergency situation, as described in paragraph 12.7.6.

(c) An Officer must not enter into separate contracts, nor select a method of calculating the Total Value of a contract in order to minimise the application of these PaCPR.

(d) Where services are currently purchased internally, i.e., from within the Council, for internal provision, the requirement to obtain other Quotations or Tenders does not apply. However, Services may choose

to seek alternative Quotations / Tenders for the purpose of market testing.

(e) The sale of goods and materials to staff must be approached with caution and the tendering procedures set out in these PaCPR must be used. Advice should be sought from the Strategic Commissioning and Procurement team to ensure that any such sale is compliant with these PaCPR and relevant legislation.

12.7.35 What are the requirements for services provided by the Council to external purchasers?

Any provision of services by the Council to external purchasers must comply with the Local Authority (Goods and Services) Act 1970. Advice should be sought from the Strategic Commissioning & Procurement Team on any such provision of services.

12.7.36 What are the requirements for Partnership Arrangements entered into by the Council?

Partnership Arrangements must comply with these PaCPR and applicable legislation. If in doubt, Officers must seek the formal written advice of the Chief Finance Officer and the Strategic Commissioning and Procurement team before entering into any Partnership Arrangement.

Light Touch Regime

12.7.37 What is the Light Touch Regime?

The Procurement Act 2023 allows the Council to apply the Light Touch Regime, which gives greater flexibility in the procedure the Council must use, to procure certain services.

12.7.38 When does the Light Touch Regime apply?

(a) The Light Touch Regime only applies to Above Threshold Procurements.

(b) Although the use of the flexibility permitted by the Light Touch Regime is encouraged, the principles in relation to public procurement, as outlined in these Procurement and Contract Procedure Rules, still apply. Application of the Light Touch Regime does not negate requirements to comply with these Procurement and Contract Procedure Rules and follow the Council's formal decision-making process.

Standards and Award Criteria

12.7.39 What standards and award criteria apply to the award of contracts by the Council?

(a) A Responsible Officer must ascertain which standards (UK and / or international) apply to the subject matter of the contract they are seeking to procure. The Responsible Officer must include in the award criteria for a purchase those standards that are necessary to properly describe the required quality of the subject matter of the contract, and with which the supplier will be expected to comply.

(b) The Responsible Officer must define the Award Criteria for a purchase so as to ensure that M.A.T. is secured.

(c) Award Criteria must not include:

(i) Non-commercial considerations;

(ii) matters which are contrary to the terms of the UK-EU Trade and Co-operation Agreement or the Government Procurement Agreement; or

(iii) matters which are anti-competitive within the meaning of the Local Government Act 1988.

G – Mechanisms for Formal Tenders

The Procurement Act 2023 sets out two options for the procurement of Above Threshold Procurements. This section briefly sets out the requirements of each route. When choosing a procurement route, Responsible Officers should always discuss this with the Strategic Commissioning and Procurement Team and Legal Services to ensure that an appropriate and compliant option is used.

Open Procedure

12.7.40 What is the Open Procedure and when is it used?

(a) The Open Procedure allows any interested Bidder to submit a response to a contract notice issued by the Council.

(b) This procedure is suitable for simple procurements where the requirement is straightforward, for example, the purchase of goods where the requirement can be clearly defined, and the Council is seeking the lowest price for those goods.

(c) There is no pre-qualification stage for Bidders, and Responsible Officers should be aware that this could lead to a large number of responses being received.

Competitive Flexible Procedure

12.7.41 What is the Competitive Flexible Procedure and when is it used?

The Competitive Flexible Procedure allows the Council to design bespoke tenders dependent upon the needs of the individual procurement. This will mean that each tender will be different but will help increase our commercial approach and ensure that all service needs requirements can been met.

H – Tenders and Quotations

Invitations to Tender

The Council is required, in certain circumstances, to issue an Invitation to Tender to potential Bidders for a contract. The Council may also wish to issue an Invitations to Tender in other circumstances. This section sets out the requirements for an Invitation to Tender and the process the Council must follow when inviting Tenders.

12.7.42 When will the Council use an Invitation to Tender?

Invitations to Tender are used when the Council wishes, or is required, to invite Tenders from suppliers. Section M of these PaCPR sets out when Tenders must be invited for contracts at specified values.

12.7.43 What information should an Invitation to Tender contain?

(a) An Invitation to Tender should state that a Tender will not be considered unless it is received by the date and time stipulated. Tenders delivered after the deadline will not be considered.

(b) All Invitations to Tender must include the following:

(i) a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers;

(ii) a requirement for Bidders to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the Bidder to any other party (except where such disclosure is made in confidence for a necessary purpose);

(iii) a requirement for Bidders to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion;

(iv) a notification that Tenders are to be prepared at the Bidders expense;

(v) a description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria;

(vi) details of how Bidders should submit their Tender;

(vii) a stipulation that any Tenders submitted by fax or e-mail are not allowed; and

(viii) the method by which arithmetical errors discovered in the submitted Tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the Tender or vice versa.

(c) All Invitations to Tender must specify the goods, services or works that are required, together with the terms and conditions of contract that will apply (see section I).

(d) The Invitation to Tender must state that the Council is not bound to accept any Tender and can stop the Tender process at any time.

(e) All Bidders invited to Tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

Invitations to Quote

12.7.44 For lower value contracts where an Invitation to Tender is not required, the Council will issue an Invitation to Quote to potential Bidders for a contract. An Invitation to Quote is a simpler process than an Invitation to Tender. This section sets out the requirements for an Invitation to Quote and the process the Council must follow when inviting Quotations.

12.7.45 When will the Council use an Invitation to Quote?

Invitations to Quote are used when the Council wishes, or is required, to invite Quotes from suppliers. Section M of these PaCPR sets out when Quotes must be invited for contracts at specified values.

12.7.46 What information should an invitation to Quote contain?

(a) An Invitation to Quote should state that a Quote will be considered unless it is received by the date and time stipulated. Quotes delivered after the deadline will not be considered. A minimum of two weeks must be given for the return of Quotations except in exceptional circumstances to be agreed with the Strategic Commissioning and Procurement Team.

(b) All Invitations to Quote must include the following:

(i) a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers;

(ii) a requirement for Bidders to declare that the Quotation content, price or any other figure or particulars concerning the Quotation have not been disclosed by the Bidder to any other party (except

where such disclosure is made in confidence for a necessary purpose);

(iii) a requirement for Bidders to complete fully and sign all Quotation documents including a form of Quotation and certificates relating to canvassing and non-collusion;

(iv) a notification that Quotations are to be prepared at the Bidders expense;

(v) a description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria;

(vi) details of how Bidders should submit their Quotation;

(vii) a stipulation that any Quotation submitted by fax or e-mail will be rejected unless it has been specifically requested by the Council (see section 12.7.49(b) below).

(c) All Invitations to Quote must specify the goods, services or works that are required, together with the terms and conditions of contract that will apply (see section I).

(d) The Invitation to Quote must state that the Council is not bound to accept any Quotation and can stop the Quotation process at any time.

Submission of Tenders and Quotations (Electronic Tendering)

12.7.47 How should Tenders be submitted?

(a) All Tenders must be submitted using the Council's electronic tendering system, i.e. the E-tendering Portal.

(b) Tenders submitted by electronic means shall ensure that:

(i) evidence that the transmission was successfully completed is obtained and recorded through the system; and

(ii) Tenders are not opened until the deadline for submission has passed.

(c) Tenders received by fax or e-mail will be rejected.

12.7.48 What are the time periods allowed for submission of a Tender?

The time periods applicable to submission of Tenders will be as set out in the Procurement Regulations.

12.7.49 How should Quotations be submitted?

(a) Where Invitations to Quote are published on the E-tendering Portal, the provisions of section 12.7.47 shall apply.

(b) Where the E-tendering Portal is not used for an Invitation to Quote:

(i) Bidders are permitted to submit their Quotation via email to the email address provided in the Invitation to Quote;

(ii) an audit trail shall be put in place in order to uphold the principles set out in these PaCPR; and

(iii) a record shall be made of the Quotations received, including names and addresses of Bidders and the date and time of opening.

Clarification of Tenders and Quotations

12.7.50 When may Bidders and the Council seek clarification in relation to a Tender?

(a) The Council is permitted to provide clarification to an Invitation to Tender to potential and actual Bidders. Clarification questions should be submitted through the E-tendering Portal.

(b) The Council may seek clarification from a Bidder in relation to a Tender in writing or in a meeting.

12.7.51 When may the Council seek clarification in relation to a Quotation?

The Council may seek clarification from a Bidder in relation to a Quotation in writing.

Evaluation of Tenders

12.7.52 How are Tenders evaluated and awarded?

Tenders must be evaluated and awarded in accordance with the Award Criteria.

12.7.53 What happens if there are arithmetical errors in a Tender?

(a) The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the Bidder, who should be requested to confirm the correct arithmetic, or withdraw their Tender.

(b) Alternatively, if the Bidder has provided contract rates in their Tender and these are stated to prevail over the overall contract price, the Council may request that the Bidder submits an amended Tender with a contract price based on the rates in the Tender.

12.7.54 How are Tenders based solely on price evaluated?

(a) If the Award Criteria for a Tender are solely based on contract price, the Council may only select the lowest price (if payment is to be made by the Council) or the highest price (if payment is to be made to the Council), unless otherwise approved by:

(i) the Executive, after considering a report from the appropriate Chief or Deputy Chief Officer; or

(ii) a duly authorised Officer, following consultation with the appropriate Executive Member.

(b) A record of the reason for accepting a different Tender must be made, as appropriate.

12.7.55 With whom may information be shared in relation to Tenders?

(a) Save as otherwise set out in this Constitution:

(i) confidentiality of Tenders and the identity of Bidders must be preserved at all times; and

(ii) information about one Bidder's response must not be given to another Bidder.

(b) The Responsible Officer should debrief in writing all those Bidders who submitted a Tender about the reasons why they were unsuccessful and the characteristics and relative advantages of the successful Bidder. This debrief should normally include:

(i) how the Award Criteria were applied; and

(ii) the prices or range of prices submitted, in either case not correlated to Bidders' names.

(c) The same information may be given to those who responded in any pre-Tender selection process. No other information should be given without taking the advice of the Chief Finance Officer and the Deputy Chief Officer responsible for Commissioning and Procurement.

12.7.56 What are the formalities for publishing information about a Contract Award?

(a) Where a contract with a value above the Low Value Contracts Threshold (as defined in Section M of these PaCPR) is awarded, the following information shall be published on Contracts Finder:

(i) name of contractor;

(ii) date on which the contract is entered into;

(iii) value of the contract; and

(iv) whether the Contractor is a SME or voluntary and community vector enterprise (VCSE).

(b) For all contracts subject to the Procurement Regulations, Contract Award Notices shall take into account any requirements and conditions

around standstill period, and an individual contract report is to be completed.

12.7.57 When and how should Bidders be notified of a Contracting Decision?

Prospective Bidders must be notified in writing at the same time, and as soon as possible, of any Contracting Decision. If a Bidder requests, in writing, the reasons for a Contracting Decision, the Responsible Officer must give the reasons in writing as soon as possible.

Contract Records

12.7.58 What records must be kept in relation to contracts?

(a) Where the Total Value of a contract is below the Procurement Threshold (as set out in Section M of these PaCPR) for supplies of goods, materials, consultants or services the Responsible Officer must ensure that the following documents are kept:

(i) Invitations to Quote and any Quotations received:

(ii) a written record of:

a. any exemption and reasons for it; and

b. if the lowest price is not accepted, the reasons for this; and

c. written records of any communication with the successful Contractor.

(b) Where the Total Value of a contract is above the Procurement Threshold (as set out in Section M of these PaCPR) the Responsible Officer must record and retain records of:

(i) any pre-Tender market research undertaken;

(ii) the method for obtaining bids;

(iii) any Contracting Decision and the reason for it;

(iv) any exemption that has been applied, together with the reasons for it;

(v) the Award Criteria;

(c) Tender documents sent to and received from Bidders;

(i) the contract documents;

(ii) clarification questions submitted and answers provided to Bidders

(iii) any post-Tender negotiation (to include minutes of meetings);

(iv) written records of any communication with Bidders during the Tender process;

(v) written records of any communication with the successful Contractor throughout the life of the contract; and

(vi) post-contract evaluation and monitoring.

(d) Written records required by this section 12.7.58 must be kept for six years (twelve years if the contract is under seal) after the final settlement of the contract. However, documents which relate to unsuccessful Bidders may be electronically scanned or stored by some other suitable method after twelve months from award of contract, provided there is no dispute about the award.

12.7.59 What are the Freedom of Information requirements in relation to contracts?

The Freedom of Information Act 2000 gives a general right of public access to all types of 'recorded' information held by public authorities, sets out exemptions from that general right, and places a number of obligations on public authorities with regard to the disclosures of information. The Council will, as a general rule, allow public access to recorded information where possible and the Contractor shall agree to the Council making any disclosures in accordance with the Act.

Withdrawal Of Tender

12.7.60 What happens if a successful Bidder withdraws their Tender?

If a Bidder withdraws their Tender after being awarded the contract, the Council will not (unless the Executive resolves otherwise) accept future Tenders from that Bidder for a period of two years from the date of withdrawal.

Nominated Sub-Contractors

12.7.61 What is the process for the Council to nominate a Sub-contractor?

(a) The following provisions shall have effect where the Council proposes to enter into a contract for the execution of work with a person (the "Main Contractor") and also proposes to nominate to the Main Contractor one or more Sub-contractors for the execution of work or the supply of goods, materials or services within the contract with the Main Contractor.

(b) The Council will issue an Invitation to Tender to potential Sub-contractors in accordance with the relevant provisions of section H, and:

(i) the terms of the Invitation to Tender shall include a requirement that the successful Bidder will enter into a contract with the Main Contractor, under which the Main Contractor will be indemnified

by the Sub-contractor in respect of its obligations to the Council which relate to the delivery / discharge of the work or goods, materials or services to be provided by the Sub-contractor; and

(ii) the relevant Deputy Chief Officer shall nominate to the Main Contractor the most appropriate Bidder as Sub-contractor. Provided that, where the successful Tender is other than the lowest price received by the Council, the circumstances shall be reported appropriately.

(c) Tenders received under this section must comply with the relevant provisions of section H.

I – Contract and Other Formalities

This section sets out the contract requirements for purchases made by the Council, including provisions that must be included in certain contracts, signing formalities, and the role of Legal Services.

Contract Documents

12.7.62 What is the role of Legal Services in relation to contracts?

All contracts should be sent to Legal Services for preparation and registration. Legal Services will be responsible for ensuring that contracts are appropriately executed by the Council.

12.7.63 When must a contract be entered into?

(a) With the exception of minor cash transactions made in accordance with the Financial Procedure Rules, every contract for the execution of work or the supply of goods, materials or services shall be created only by:

(i) the issue of an official order raised via the Council's financial system; or

(ii) where an Invitation to Tender has been issued, the completion of a formal written contract.

(b) Section 12.7.63(a) above will not apply if the relevant Deputy Chief Officer certifies that, owing to the nature of the proposed contract, the interests of the Council will be adequately protected by the issue of an official order form.

(c) All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, as agreed in writing by the Chief Finance Officer.

12.7.64 What are the requirements for contracts entered into by or on behalf of the Council?

(a) Every Relevant Contract over the Low Value Procurement Threshold purchases, for works, supplies of goods, materials, consultants or services must also as a minimum state clearly:

(i) that the Contractor may not assign or sub-contract without the prior written consent of the Council;

(ii) any insurance(s) the Contractor is required to have;

(iii) any health and safety requirements the Contractor is required to follow;

(iv) any relevant ombudsman requirements;

(v) the requirements for ensuring compliance with data protection legislation;

(vi) that charter standards are to be met, if relevant;

(vii) the Council's requirements in respect of Freedom of Information and Human Rights;

(viii) if relevant, that agents used to let contracts must comply with these PaCPR;

(ix) a right of access for the Council to relevant documentation and records of the Contractor for monitoring and audit purposes; and

(x) whistleblowing arrangements.

(b) All contracts must include the following paragraph:

> "The Contractor recognises that the Council is under a duty to act in a manner which is compatible with the Convention rights as defined by Section 1(1) of the Human Rights Act 1998 ('Convention Rights'). This duty includes a positive obligation on the Council to ensure that contractors providing services on the Council's behalf act in a way which is compatible with the Convention Rights. The Contractor therefore agrees to provide the Services and comply with its other obligations under this contract in a manner which is compatible with the Convention Rights."

(c) Where payment in advance is required under a contract, the formal written approval of the Deputy Chief Officer with responsibility for Commissioning and Procurement, following due diligence of the

organisation, is required. In the event of industry standards leading to a common accepted practice of advance payments (e.g., software licences) this would only need to be sought once.

12.7.65 When must the advice of Legal Services be sought in relation to a contract?

Notwithstanding that all contracts should be sent to Legal Services for review, the formal advice of Legal Services must be sought for a Contract that includes one or more of the following features:

(a) the Total Value of the procurement is above the Key Decision threshold;

(b) it involves financial lease arrangements;

(c) it is proposed to use a contractor's own terms; or

(d) it is particularly complex or high risk.

Execution of Contracts

12.7.66 What are the execution formalities for Council contracts?

(a) All Contracts shall be executed by an Officer with authority to do so under the Council's Scheme of Delegations.

(b) The use of electronic signatures is permitted provided a process has been established and approved by Legal Services.

(c) The Officer responsible for securing the signature of the Contractor must ensure that the person signing for the Contractor has authority to bind it. If the Officer is uncertain, this must be referred to Legal Services.

(d) Where contracts are completed by each side adding their formal seal (including a digital equivalent), the fixing of the Council's seal must be witnessed by an Officer on behalf of the Monitoring Officer. Every Council sealing will be numbered, recorded and signed by the person witnessing the seal.

(e) The Council's seal must not be affixed without the authority of the Council, the Executive or a Chief or Deputy Chief Officer acting under delegated powers.

12.7.67 When must a contract be sealed?

(a) A contract must be sealed where:

(i) the Council wishes to enforce the contract for more than six years after it ends;

(ii) the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;

(iii) there is any doubt about the authority of the person signing for the Contractor; or the Total Value of the contract is expected to exceed the Procurement Threshold for works, goods, services or materials, consultancy, or a Concession Contract as set out in Section M of these PaCPR.

(b) Notwithstanding the above, there is no requirement for a contract to be sealed if the Monitoring Officer has determined that this is not required.

Liquidated Damages

12.7.68 When should a liquidated damages provision be included in a contract?

Every formal written contract, which exceeds the Low Value Contract Threshold set out in Section M of these PaCPR and is for the execution of works shall provide for liquidated damages to be paid by the Contractor in case the terms of the contract are not duly performed.

Bonds

12.7.69 When is a Bond required?

The Responsible Officer must consult the Chief Finance Officer about whether a Bond is needed where:

(a) the Total Value of a contract exceeds £200,000; or

(b) it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

Parent Company Guarantees

12.7.70 When is a parent company guarantee required?

The Responsible Officer must consult the Chief Finance Officer about whether a parent company guarantee is required where a Bidder is a subsidiary of a parent company and:

(a) the Total Value of the contract exceeds £200,000;

(b) the Contract Award is based on evaluation of the parent company; or

(c) there is concern about the financial stability of the Bidder.

Prevention Of Corruption

12.7.71 What measures must be taken to prevent corruption?

(a) High standards of conduct are obligatory for all Officers. A Responsible Officer must comply with the Officer Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Responsible Officer to

prove that anything received from a Bidder or Contractor was not received corruptly. Corrupt behaviour will lead to dismissal and is a crime under statutes referred to in section 12.7.71(b).

(b) The following clause must be included in every written contract entered into by the Council:

> "The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:
>
> (i) offer, give or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
> (ii) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972; or
> (iii) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Members, Contractors or employees."

(c) Any clause limiting the Contractor's liability shall not apply to this clause.

12.7.72 How is suspected corruption investigated?

Any suspected irregularity shall be referred to the Chief Officer responsible for Internal Audit, who shall notify the Chief Finance Officer and Monitoring Officer where necessary. Any examination of Contractors' or Bidders' books and records undertaken because of any such suspected irregularity shall be conducted by the Chief Officer with responsibility for Internal Audit. If, in the investigation of any irregularity, the Chief Finance Officer considers that disciplinary procedures may need to be invoked, the appropriate Deputy Chief Officer for the service shall be notified, together with the Monitoring Officer and the Deputy Chief Officer responsible for Human Resources.

Declaration Of Interests

12.7.73 When must Members and Officers declare in interest in relation to a contract?

(a) If it comes to the knowledge of a Member or an Officer that a contract in which he or she has a pecuniary interest has been, or is proposed to be, entered into by the Council, they shall immediately give written notice to the Monitoring Officer.

(b) Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest arises in respect of a contract to which the member or employee is not directly a party.

(c) A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this section.

(d) The Monitoring Officer shall maintain a record of all declarations of interests notified by Members and Officers.

(e) The Monitoring Officer shall ensure that the attention of all Members is drawn to the national code of local government conduct.

(f) For the avoidance of doubt, the Member Code of Conduct, the Officer Code of Conduct and relevant provisions in the Constitution relating to declarations of interests shall apply to Members and Officers, as applicable.

(g) The Procurement Act 2023 also provides guidance on conflicts of interest and will be followed for any over threshold tender completed under it.

J: The Life of the Contract

12.7.74 What are the Council's contract management requirements?

(a) The Procurement Act 2023 now sets specific contract management requirement for contracts that meet the necessary criteria and this will involve the publication of key performance indicators as part of contract award and through the life of the contract and this must be adhered to and will be identified as part of the tender.

(b) For contracts that do not fall into the Procurement Act 2023 then proportionate contract management, taking into account the risks to the Council in relation to a contract, must be an integral part of considerations when planning a procurement. Responsible Officers should ensure that there is a dedicated contract manager who is suitably qualified and experienced, and who will have detailed knowledge of the contract, and that appropriate contract management systems that are aligned to contract and corporate objectives, Value for Money / Best Value and performance improvement are in place.

(c) Payments should be made in accordance with relevant contract terms and the Procurement Regulations and in a timely manner to avoid the payment of any interest charges.

(d) The Council has a Contract Monitoring Framework, which sets out how contracts should be monitored during their life. Responsible Officers must comply with the Contract Monitoring Framework in respect of contracts for which they are responsible.

(e) The Strategic Commissioning and Procurement Team will ensure that:

(i) there is compliance with the specification, pricing and contract terms for any procurement;

(ii) contract performance and key performance indicators (where applied) are monitored and enforced on a regular basis with any reduction in performance addressed;

(iii) regular budget monitoring and cost reconciliation of payments takes place to ensure that the contract sum is not exceeded; and

(iv) contract risk assessments are conducted at regular intervals.

12.7.75 What happens if a Contractor fails to comply with the contract?

(a) If a Contractor fails to comply with any of the provisions of a contract, the contract manager must try to secure compliance in accordance with the terms of the contract. Proper records must be kept regarding contract failings and any corrective measures put forward.

(b) If this is not successful, the matter should be referred promptly to Strategic Commissioning & Procurement and their advice should be sought as to what action should be taken to protect the Council's interests.

(c) Where the Procurement Act 2023 applies then formal notices will be required on poor performance.

12.7.76 How are disputes with Contractors managed?

Where practicable, all Contracts should contain a dispute resolution procedure. If there is a contract dispute, the contract manager must follow the dispute resolution provisions contained in the contract and seek legal advice from Legal Services where necessary. Advice should also be sought from the Chief Finance Officer regarding the financial implications of any dispute.

Contract Extensions and Variations

12.7.77 When and how may contracts be extended and / or varied?

(a) Contracts may only be extended or varied where:

(i) the contract permits the extension or variation;

(ii) the extension or variation complies with the Procurement Regulations and any other applicable legislation;

(iii) the extension or variation is approved by Chief Finance Officer and the Monitoring Officer.

(b) Guidance should be sought from the Strategic Commissioning and Procurement team, with confirmation sought from Legal Services (where required) in relation to any proposed extension or variation of a contract

to ensure that it is compliant. Crown Commercial Service also provides guidance on this.

(c) Any extension or variation of an Above Threshold Procurement must be made in accordance with the Procurement Regulations.

(d) Any approval of an extension or variation to a contract must be notified to Strategic Commissioning and Procurement to be recorded in the Contracts Register.

(e) Any contract extension entered into that is not envisaged by the original contract for the relevant procurement will be considered a breach of these PaCPR and paragraph 12.7.3 will apply. Where such an extension is deemed to be required, advice should be sought from Strategic Commissioning & Procurement on how to procure the required services in a compliant way.

Termination Of Contracts

12.7.78 What termination provisions should contracts include?

(a) The Procurement Act 2023 requires a formal notice to be published when any contract awarded under it is terminated for any reason and the Strategic Commissioning & Procurement team will support the publication of this notice.

(b) Every contract entered should include appropriate provisions for its termination. Responsible Officers should seek advice from Legal Services on the termination clause(s) that should be included in a particular contract.

(c) Termination provisions should include:

(i) the circumstances in which the Council and the Contractor may terminate the contract;

(ii) any notice requirements for termination; and

(iii) the consequences of termination, including (where appropriate), the exit provisions that will apply.

(d) In any event, every contract in respect of an Above Threshold Procurement should include a provision that allows the Council to terminate the contract if:

(i) the contract is subject to a modification that would have required a new procurement under the Procurement Regulations; or

(ii) at the time of the Contract Award, the Contractor should have been excluded from the procurement for one of the reasons set out in the Procurement Regulations.

(e) Legal Services will provide advice to Responsible Officers on the appropriate wording to be included in relevant contracts.

K: Other Types of Procurement

Commissioning A Consultant

12.7.79 What is the process for commissioning a Consultant?

(a) The engagement of consultant architects, engineers and surveyors or other professional consultants shall be subject to the process outlined in the Commissioning a Consultant Policy.

(b) In summary, the following process shall apply:

(i) a business case must be produced evidencing:

a. the need for the consultant;

b. the outcome to be achieved;

c. how the work will be managed;

d. the mechanism for funding the work; and

(ii) the engagement will, in the first instance, be undertaken through the NEPRO Solution.

Procurement Of Agency Staff

12.7.80 How are agency staff procured?

(a) Approval to appoint short-term agency staff must be obtained through a Vacancy Control Form.

(b) Once approved, confirmation of the approval and a job description must be sent to agencyprocurement@middlesbrough.gov.uk.

(c) The vacancy will, in the first instance be posted to agencies through the Neutral Vendor Framework. Only in circumstances where recruitment is unsuccessful via the Neural Vendor Network will an alternative procurement solution be undertaken.

(d) Candidates will be identified and interviewed. The recruiting manager will appoint and manage the successful agency staff member and be the Responsible Officer for timesheet approval and recording.

(e) Senior or specialist roles will be sought from the Local Government Resourcing Partnership or other associated frameworks. In these circumstances, the Responsible Officer should seek the advice of Strategic Commissioning & Procurement on the procurement of such agency staff after a Vacancy Control Form has been approved.

(f) In all cases, agency positions will be considered to be inside IR35, unless specifically determined otherwise by HR and / or Legal Services.

Concession Contracts

12.7.81 What is a Concession Contract?

(a) A “Concession Contract” is one under which the Council provides an opportunity to a supplier to exploit the delivery of works, goods or services and the supplier receives benefit or payment for those directly from a third party rather than the Council paying for them directly.

(b) A Concession Contract must involve the transfer of an operating risk to the supplier, the risk transferred must involve real exposure to the market, and the services must be for the benefit of the Council or its residents.

(c) The advice of Legal Services and Strategic Commissioning and Procurement should be sought to confirm whether a contract is a Concession Contract.

12.7.82 How is the value of a Concession Contract determined?

The value of a Concession Contract is the estimated total turnover that the supplier can generate in consideration for the works, goods or services over the duration of the contract, net of VAT, as estimated by the Council.

12.7.83 What are the rules that apply to procurement of Concession Contracts?

There are specific requirements for the procurement of Concession Contracts that are Above Threshold Procurements. Advice should be sought from Strategic Commissioning & Procurement in relation to any such Concession Contract.

L: Exemptions

12.7.84 Procurement and Contract Procedure Rules Exemptions Procedure

(a) This section sets out the steps to be taken if the PaCPR cannot be followed.

(b) Wherever possible compliance with the PaCPR should be the first consideration.

(c) In the event compliance is not possible, these exemption provisions can provide formal exemption from specific elements of the PaCPR.

(d) The approval of an exemption does not remove the requirement for procurements to follow the Council's decision making processes.

(e) Exemptions for above threshold procurement will not be approved and a formal tender process in line with the Procurement Act 2023 and the PaCPR will be required.

(f) Wherever possible the seeking and authorisation of an exemption should be done in a manner that avoids the need for further exemptions to be sought.

12.7.85 General

(a) The intention of the Exemption provision is to:

(i) help to mitigate risks of challenge from third parties in how the Council procures Supplies / Services and Works;

(ii) improve transparency and probity in how decisions are made;

(iii) help to manage, control and mitigate other risks.

(b) Having relevant contract management arrangements and / or forward planning in place will help to mitigate the need for exemptions to be sought.

(c) In the majority of cases exemptions will be considered for a maximum of 24 months or less. If a longer time period is required this must be justified in the Exemption Request form and will be subject to annual review should the exemption be approved.

(d) In all cases exemptions must be completed and authorised in advance of committing spend. Where this is not the case, and commitments are put in place in advance of any exemption being granted, this shall be considered under the Breach procedures set out at paragraph 12.7.3 of the PaCPR.

(e) Suitable justification will be required when looking to progress an exemption to the PaCPR.

(f) All requests for exemption must be completed using the Exemption Request form and submitted to the Strategic Commissioning and Procurement team for approval and recording of any actions agreed.

(g) When considering whether to apply for an Exemption, sufficient time should be allowed relative to the complexity of the issue in order to enable the necessary due diligence to review the request.

(h) Exemptions shall not be used to overcome poor planning of activities, where compliance with the PaCPR would otherwise have been possible. The number and nature of exemptions requested will be monitored

12.7.86 Reasons for Exemptions

Requests for an exemption from the PaCPR will need to be justified and supported by detailed information demonstrating why the PaCPR have not been followed. An exemption may be granted if one or more of the following apply:

(a) any contract or sub-contract that is substantially for the undertaking of services in which the exercise of professional knowledge and skill is of primary importance;

(b) any contract for works, supplies and services which are patented or of a proprietary or special character and for which it is not possible or desirable to obtain competitive prices;

(c) for technical, commercial or artistic reasons or because of exclusive rights, it is not reasonable to advertise for Tenders;

(d) where the contract is awarded under the terms of a strategic partnership arrangement approved by the Executive;

(e) contracts for social care services under the National Health Services and Community Care Act 1990 or the Children Act, 1989 that are below the financial threshold set out in Section M of these PaCPR;

(f) where a supplier owns a property and is also a registered service delivering care into those premises and the contract value is below the financial threshold set out in Section M of these PaCPR;

(g) grant conditions require expenditure to be incurred within a financial year, and notification of a grant is received so late as to prevent compliance with the PaCPR;

(h) the Council is awaiting publication or confirmation of legislative changes that will directly impact future service delivery and the loss of the service would be detrimental to the delivery of Council services;

(i) a purchase is to be made by auction;

(j) there is no demonstrable market;

(k) a purchase is to be made using standing arrangements with another local authority, government department, health authority, statutory undertaker or public service purchasing consortium;

(l) a new contract is proposed to be entered into or an existing contract is being extended and a change of supplier would cause:

  (i) disproportionate technical difficulties;

  (ii) economic disadvantage; or

  (iii) significant disruption to the delivery of Council services;

(m) it is economically advantageous to enter into a direct contractual arrangement and this is clearly evidenced to support the financial position.

12.7.87 Are there any alternative options to an exemption?

Prior to applying for an Exemption, consideration shall be given to whether the Emergency process applies, or an alternative procurement route would be applicable.

12.7.88 What is the process for requesting an exemption from the PaCPR?

(a) Before completing an Exemption Request form, Chief Officers and Deputy Chief Officers should discuss and agree with the Strategic Commissioning and Procurement team the basis on which they are applying for an exemption.

(b) Where it is considered the PaCPR cannot be followed the relevant Deputy Chief Officer must complete an Exemption Request form, which must be signed by the appropriate officers as set out at Table 12 in paragraph 12.7.80. The Exemption Request Form must be submitted to exemptions@middlesbrough.gov.uk for review, comment and, where appropriate, authorisation.

(c) The officer completing the Exemption Request Form is responsible for providing the relevant factual and supporting information for the request. The completed form must address compliance with Key Decision requirements as set out in the Access to Information Procedure Rules at Section 14.

(d) The Chief Finance Officer and the Deputy Chief Officer with responsibility for Commissioning and Procurement reserve the right to refuse any application for an exemption. Where an exemption relies on an exception in the Procurement Regulations, it will be rejected unless evidence is provided to demonstrate that the exception applies.

(e) If the exemption is not granted the Strategic Commissioning and Procurement Team will discuss this directly with the service area with a view to amending the request or taking alternative action.

(f) Approved exemptions will be retained by the Strategic Commissioning and Procurement Team in a central record, together with any directions on the next steps.

(g) Contracts entered into following the granting of a PaCPR exemption must be uploaded to the Council's contract register.

12.7.89 Authorisation Levels.

Authorisation levels for exemptions are as set out at Table 12.

Table 12: Authorisation of Exemption from Procurement and Contract Procedure Rules

Exemption Value	Directorate / Service Area	Corporate Authorisation
£5,000 - £150,000	Deputy Chief Officer	Deputy Chief Officer responsible for Procurement
£150,000 - Threshold Limits	Chief Officer	Chief Finance Officer
Extension of exemption	Chief Officer	- Deputy Chief Officer responsible for procurement; - Chief Finance Officer; - Monitoring Officer

12.7.90 Amendments to an Exemption

Where an amendment is required to an approved exemption the following should be followed:

(a) for minor amendments the original exemption form can be updated to reflect the changes, and shall be approved by the original signatories. This may be supported by e-mails to support the rationale for the change

(b) Where the change is considered material and beyond what could be deemed minor then a new Exemption form will be required.

12.7.91 Extensions to an Exemption

(a) The PaCPRs shall be followed to ensure an appropriate and compliant procurement solution is in place in advance of the expiry of the exempted arrangements.

(b) There should be very few circumstances in which an extension to an Exemption is required.

(c) In the event that an extension to exempted arrangements is required, a further application for an exemption must be applied for and include details as to why the procurement remains non-compliant with the PaCPRs.

(d) An extension to arrangements which have already been exempted from compliance with the PaCPRs must be authorised by the Deputy Chief Officer with responsibility for procurement, the Chief Finance Officer and the Monitoring Officer.

M: Procurement Thresholds

12.7.92 Introduction

The Procurement Regulations set out statutory Procurement Thresholds (i.e., financial limits) for different types of procurement. Any Above Threshold Procurement must be conducted in accordance with the requirements set out in the Procurement Regulations. Procurements that are below a statutory threshold should be conducted as set out in the tables in this Section M.

12.7.93 Procurement Thresholds

(a) The statutory Procurement Thresholds are published and maintained by government. This website should be checked to verify the existing procurement thresholds. In the event of any disparity between this constitution and the website, the figures on the government website shall prevail.

(b) Contract values should be calculated on the basis of the whole life of the contract and should include VAT. No deduction should be made for any available VAT recovery and the standard rate of VAT (currently 20%[170]) should be used.

(c) When advertising a contract, and for contract award notices, the estimated contract value should be provided exclusive of VAT.

12.7.94 Key Decisions

Where any procurement requires a Key Decision (as defined at paragraph 13.11) to be made, that Key Decision must be given and recorded before an Invitation to Quote or an Invitation to Tender is issued.

12.7.95 Local suppliers

Up to certain contract values, local suppliers are to be used where possible. Local suppliers are suppliers who are located within the Borough or Teesside and / or whose office or premises has a TS postcode.

12.7.96 Tables of authorisation

Table 13 – Goods and Services

Table 14 – Light Touch Regime

Table 15 - Works

[170] 1 April 2025

Goods and Services – including the procurement of consultancy and other professional services, and the procurement of agency staff.

Table 13: Goods and Services

Value ⟶ Requirement	Up to £10,000	£10,001 to Procurement Threshold	Above Threshold Procurement
Process	Direct award unless an appropriate contract already exists	At least 3 quotations Option to issue Invitation to Tender	At least 5 Tenders
Decision to Award	Budget Holder, Deputy Chief Officer or Chief Officer	Quotation evaluation outcome	Tender evaluation outcome and Tender award briefing note approved by DMT
Formalities	Order raised on the Council's financial system (paragraph 12.7.63 of the PaCPR)	Order raised on the Council's financial system (paragraph 12.7.63 of the PaCPR) Minimum contract requirements as set out in paragraph 12.7.64 of the PaCPR	Formal contract approved by Legal Services
Signing or sealing (including digital equivalent)	Legal signature if contract Chief Officer approval if not	Legal memo submitted to legal with Chief Officer approval	Legal memo submitted to legal with Chief Officer approval
Exemption	Not applicable	In accordance with PaCPR Section L.	Not applicable
Other	Must demonstrate Best Value Local suppliers to be used where possible	Local suppliers to be used where possible To be published on: - E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)	Procurement Regulations apply To be published on: - E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)

Light Touch Regime – applies to procurement of public service contracts for social care services and certain other specified contracts pursuant to Regulation 5 of the Procurement Regulations

Table 14: Light Touch Regime

Value ⟶ / **Requirement**	**Up to £10,000**	**£10,001 to Procurement Threshold**	**Above Threshold Procurement**
Process	Direct award unless an appropriate contract already exists	At least 3 quotations Option to issue Invitation to Tender	At least 5 Tenders
Decision to Award	Budget Holder Deputy Chief Officer or Chief Officer	Quotation evaluation outcome	Tender evaluation outcome and Tender award briefing note approved by DMT
Formalities	Order raised on the Council's financial system	Order raised on the Council's financial system Minimum contract requirements as set out in the PaCPR	Formal contract approved by Legal Services
Signing or sealing (including digital equivalent)	Legal signature if contract Chief Officer approval if not	Legal memo submitted to legal with Chief Officer approval	Legal memo submitted to legal with Chief Officer approval
Exemption	Not applicable	In accordance with PaCPR Section L.	Not applicable
Other	Must demonstrate Best Value Local suppliers to be used where possible	Local suppliers to be used where possible To be published on: - E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)	Procurement Regulations apply To be published on: - E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)

Works – purchase of works / goods / services, including Concession Contracts

Table 15: Works

Value → **Requirement**	**Up to £10,000**	**£10,001 to £250,000**	**£250,001 to Procurement Threshold**	**Above Threshold Procurement**
Process	Direct award unless an appropriate contract already exists	At least 3 quotations Option to issue Invitation to Tender	At least 5 Tenders	At least 5 Tenders
Decision to Award	Budget Holder, Deputy Chief Officer or Chief Officer	Quotation evaluation outcome	Tender evaluation outcome and Tender award briefing note approved by DMT	Tender evaluation outcome and Tender award briefing note approved by DMT
Formalities	Order raised on the Council's financial system (paragraph 12.7.63 of the CPR)	Order raised on the Council's financial system (paragraph 12.7.63 of the PaCPR) Minimum contract requirements as set out in paragraph 12.7.64 of the PaCPR	Formal contract approved by Legal Services	Formal contract approved by Legal Services
Signing or sealing (including digital equivalent)	Legal signature if contract Chief Officer approval if not	Legal memo submitted to legal with Chief Officer approval	Legal memo submitted to legal with Chief Officer approval	Legal memo submitted to legal with Chief Officer approval
Exemption	Not applicable	In accordance with PaCPR para 12.7.88	In accordance with PaCPR para 12.7.88	Not applicable
Other	Must demonstrate Best Value	Local suppliers to be used where possible	To be published on:	Procurement Regulations apply

	Local suppliers to be used where possible	To be published on: - E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)	- E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)	To be published on: - E- tendering Portal - Contracts Finder - Find a Tender (if Invitation to Tender issued)

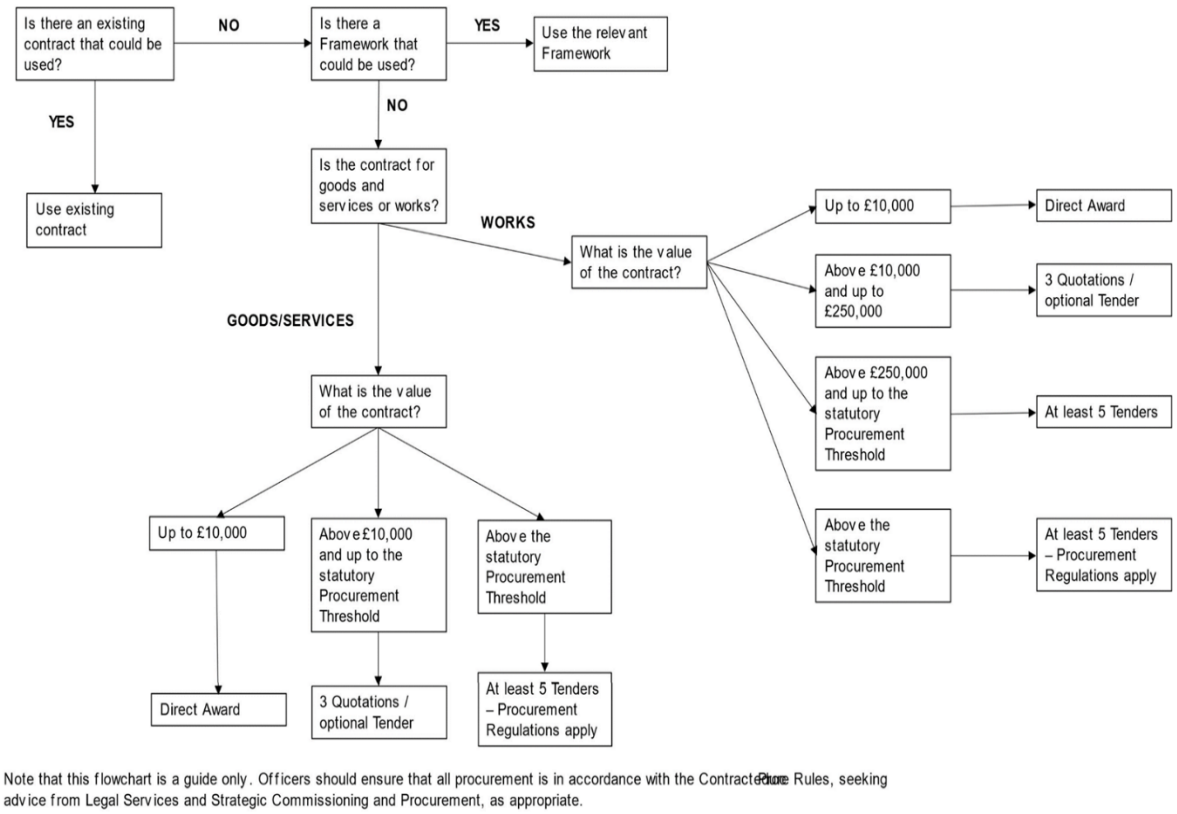

Figure 5: Procurement Process

Annex – Letting Of School Based Contracts

This section outlines the Department for Education & Skills (DfES) regulations ensuring compliance with the requirements of the Fair Funding Scheme when letting contracts. The Fair Funding Scheme has been drawn up in consultation with schools and is approved by the Secretary of State. The Scheme sets out the financial relationship of schools under delegation with the Council and the areas it covers are required by regulations made under the School Standards and Framework Act 1988.

12.7.97 What are the considerations for letting school-based contracts?

(a) Section 2.9 of the Fair Funding Scheme requires that Governing Bodies maintain a register of business interests of governors and Head teachers. This does not preclude participation in discussions about the relative merits of Quotations and Tenders but does mean those with a declared interest cannot vote on the final decision on the award of a contract. Those with declared interests must not be given any information about the Quotations or Tenders of other Contractors until after the deadline for submission of all Quotations and Tenders has passed.

(b) Governing Bodies are acting as agents of Middlesbrough Council when they enter into contracts using funds delegated by the Authority. This means that Governing Bodies enter into contracts on behalf of Middlesbrough Council. Schools must adhere to the terms and conditions within the contract. Section 6.2.3 of the Fair Funding Scheme enables the Authority to charge any costs to a school's delegated budget awarded against it by a court for breach of contract by a school where they have failed to heed LEA advice.

(c) The status of Governing Bodies of aided and foundation schools gives them additional responsibilities. Governing Bodies of these schools are not acting as agents of the LEA and are not bound by the Financial Scheme when exercising their additional powers or discharging additional responsibilities.

(d) The provision of services and facilities by the LEA are covered by Section 8 of the Fair Funding Scheme. Although not a legally binding contract the terms and conditions of the Service Level Agreement set out the respective responsibilities of schools and the LEA. The Chief Officer with responsibility for education will act as arbiter should a dispute arise.

(e) Section 1.5 of the Fair Funding Scheme suggests the appropriate delegation to Head teachers. This includes delegation to enter into contracts. Governing Bodies are free to determine their own levels of delegation to Head teachers. In exercising delegated powers Head teachers must abide by the contracting processes referred to in this document.

(f) Section 2.10 of the Fair Funding Scheme does not restrict schools to selecting Contractors from Approved Lists. However, where schools choose Contractors who are not on the Council's approved list they must satisfy themselves as to the health and safety competence and insurance cover of the Contractor. Schools should also have regard to Child Protection legislation and satisfy themselves that Contractors have made adequate arrangements to monitor the activities of employees where they will have access to children during the course of their work. It is essential that schools record their reasons for assessing and selecting a Contractor when they let a contract. This is not only considered good practice but also provides essential evidence to safeguard schools and the LEA from litigation claims.

(g) Schools are advised that selecting Contractors from the Council's approved list is the preferred method of obtaining quotes and Tenders. Details of Contractors on the approved list are available, including the type and value of work for which each Contractor is approved and their status for tax deduction under the Construction Industry Taxation

Scheme (CITS) (see section 7.2 of the Finance Scheme and Annex 5 of the Fair Funding Scheme).

(h) Schools are required to seek at least three written Quotations for any contract for goods, materials, services & consultants valued between £16,000 and £53,099. For works at least three written Quotations are required for any contract valued between £16,000 and £106,099.

(i) Schools are required to seek Tenders for any goods, materials, services or consultants valued over £53,100 and works valued over £106,100.

(j) In all cases where Quotations or Tenders are sought schools should accept the bid that is most economically advantageous Tender. The reasons for accepting a Quotation or Tender must always be recorded in the minutes of Governing Body meetings where Head teachers have used delegated powers referred to above.

(k) All Tenders should be accepted by the full Governing Body (subject to the withdrawal from the decision-making process by those with business interests (see above) and delegation to the Head teacher by the Governing Body (see above)). In exceptional circumstances where the lowest Tender is not accepted the Governing Body must record its decision in the minutes of the meeting.

(l) Governing Bodies (or Head teachers with delegated powers) must ensure that Bidders have adequate public liability insurance cover of at least £5m for the work or goods and services covered by the contract before Contractors are appointed.

13 Decision-Making

The purpose of this section is to set out how the various decisions of the Council will be taken. It also explains the principles under which decision-making powers are delegated to different people. Full details of who makes decisions in relation to specific functions are set out in Section 10 - Responsibility for Functions.

13.1 Who are the Council's decision makers?

13.1.1 The ability to take decisions on behalf of the Council can be bestowed by virtue of statute, or through delegation.

13.1.2 Subject to the provisions of this Constitution, the decision makers in the Council are:

(a) Full Council;

(b) Non-executive committees and sub-committees;

(c) the Mayor;

(d) the Executive;

(e) a committee or sub-committee of the Executive;

(f) an individual Executive Member;

(g) a joint committee, whether Executive or Non-executive in nature; and

(h) an Officer as set out in Part D of Section 10 of this Constitution.

13.1.3 The Council will maintain at Section 10 a record of the allocation of responsibilities for functions.

13.1.4 Where the Council's functions have been delegated to a body that is referred to as a Group, Forum or Panel, such a body shall constitute a Committee or Sub-committee of the Council for the purposes of local government law notwithstanding its title.

13.2 What principles are Council decisions based upon?

13.2.1 All decisions of the Council, regardless of the decision maker, will be made in accordance with the following principles:

(a) proportionality (i.e., the action must be proportionate to the desired outcome);

(b) due consultation and the taking of professional advice from Officers;

(c) respect for human rights and the positive promotion of equality of opportunity;

(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);

(g) the rules of natural justice;

(h) due regard to the need to prevent people from being drawn into terrorism

(i) regard for any fiduciary duty owed to a third party (e.g. Teesside Pension Fund)

13.2.2 The above principles are also reflected within the Code of Corporate Governance adopted by the Council, which establishes how good governance will be achieved within the organisation.

13.2.3 The Council's Code of Corporate Governance 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)[171].

13.2.4 Good governance influences management, performance, stewardship of public money and public engagement. 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. Good governance therefore ensures good outcomes for those who live, work in, or visit Middlesbrough.

13.3 How are Council decisions made?

Council decisions are made in relation to Non-executive Functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Authority to take decisions on many Non-executive Functions is delegated as set out in Part B of Section 10.

13.4 How are Executive decisions made?

Executive Decisions are made in relation to Executive Functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Authority to take

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171 Delivering Good Governance in Local Government Framework 2016 Edition (CIPFA / Solace)

decisions on Executive Functions is delegated as set out at Part C of Section 10.

13.5 Which decisions are made by the Overview and Scrutiny Board?

The Overview and Scrutiny Board, and any Scrutiny Panels appointed, are not decision making committees of the Council but advisory committees who make recommendations to the Full Council and the Executive as set out in Section 7.

13.6 What other decisions can be made?

13.6.1 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 8 and the functions of other committees are set out in section 10.

13.6.2 Decision makers exercising regulatory functions may, in accordance with the authority delegated to them as set in Section 10:

(a) impose any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted;

(b) determine whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject;

(c) revoke any approval, consent, licence, permission or registration granted;

(d) amend, modify or vary any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation restriction or term to which it is subject.

13.7 How does a Council body make a decision when acting as a tribunal?

A decision maker 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.

13.8 Which decisions are made by Officers?

Decisions are delegated to Officers by decision making bodies as set out at Part D of Section 10.

13.9 What information must be provided to decision makers to enable them to take a decision?

(a) Decision makers will usually take decisions once they have been provided with the following information:

(i) the source of authority to make the decision (i.e. the Constitution, a Scheme of Sub-delegation or an express delegation in relation to a decision);

(ii) the factual background to the decision;

(iii) why a decision is required and by when;

(iv) what options are open to the decision maker, and the consequences for each option;

(v) if a preferred option is recommended, the rationale for the recommendation; and

(vi) confirmation of the organisational impact of the decision (e.g. finance, staffing, risk assessments etc);

(b) The information set out above will usually be presented to the decision maker in a standard report template.

(c) Reports will normally appear in the name of the relevant Chief Officer and will incorporate advice from appropriate Officers. The originator of a report will ensure that draft reports are the subject of consultation with the relevant Chair or Executive Member, the Head of Paid Service and any relevant Chief Officer and Heads of Service, including in all cases the Chief Finance Officer and the Monitoring Officer.

13.10 What types of decision can be made on behalf of the Council?

There are three distinct types of decision which can be made on behalf of the Council:

(a) Key Decision;

(b) Significant Decision;

(c) Operational Decision.

13.11 What is a Key Decision?

13.11.1 The Mayor has determined that a Key Decision is a decision in respect of an Executive function that:

(a) will incur expenditure or savings in excess of £250,000 (the ‘financial threshold’); and / or

(b) will have a significant impact on two or more Wards in the Borough (the ‘impact threshold’).

13.11.2 The Council has agreed that the following are Key Decisions:

(a) recommending a budget to Full Council;

(b) a proposal by the Executive to amend the Policy Framework;

(c) a decision by the Executive to amend the Policy Framework where the Council has granted it power to do so; and

(d) the Executive's response to a report of the Overview and Scrutiny Board or a Scrutiny Panel when the decision is to implement an action and the Key Decision thresholds are met.

13.11.3 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.

13.12 What is the process for making a Key Decision?

13.12.1 Key Decisions must be made in accordance with the following process:

(a) Notice of intention to make the Key Decision has been published on the Forward Work Programme for at least 28 clear days, failing which:

(i) notice of intention to make a Key Decision can be published on the Forward Work Programme for not less than 5 clear days[172] provided that:

a. the Chair of Overview and Scrutiny Board has been informed: and

b. a notice has been published as to why it is impracticable to include the decision in the Forward Work Programme for a period of 28 clear days prior to taking the decision; or

(ii) less than 5 days notice of intention to make a Key Decision can be published on the Forward Work Programme provided that:

a. the relevant Chief Officer obtains the agreement of the Chair of Overview and Scrutiny Board that the matter is urgent[173] and cannot reasonably be deferred; and

b. notice of the agreement is published with the agenda for the meeting, the report as to the urgency of the decision

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[172] The "general exception" process – Regulation 10 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

[173] The "special urgency" process - Regulation 11 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

and the agreement of the Chair of Overview and Scrutiny Board;

(b) A Decision Record[174] is published within 2 clear days of the Key Decision being taken setting out:

(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;

(vii) details of any alternative options considered; and

(viii) details of any consultation[175] undertaken in respect of the decision.

The Key Decision is not implemented until the Call-in period expires, unless the call-in provisions set out at Paragraphs 7.6.17 to 7.6.24 apply.

13.13 A decision will not be a Key Decision (but may be a Significant Decision) if it relates to:

(a) a bid for funding in excess of the Key Decision financial threshold where a further report will be submitted to the Executive for approval if the bid is successful;

(b) inevitable expenditure for the day-to-day delivery of Services (for example, supplies, salaries and wages), as determined by the Head of Paid Service;

(c) 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);

(d) 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;

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174 Regulation 12(2) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

175 Consultation in this context does not include public consultation but rather consultation with relevant officers and members (e.g. ward members, executive portfolio holders etc).

(iii) implement a capital project named in the approved capital programme; or

(iv) provide for the continuation of an approved policy or Service;

(e) a proposal that is included in the Budget in sufficient detail for it to be understood by interested parties; and

(f) care packages, service responses and expenditure for care and accommodation which relate to individual service users, and which are exempt.

13.14 What is a Significant Decision?

13.14.1 A decision in relation to Executive or Non-executive Functions which is not a Key Decision or an Operational Decision will be a Significant Decision, including:

(a) decisions with a financial impact of less than £250,000 which:

(i) will have a significant impact on communities in one Ward or electoral division; or

(ii) there is another reason for publication of the decision;

(b) non-executive decisions where the effect of the decision is to[176]:

(i) grant a permission or licence;

(ii) affect the rights of an individual; or

(iii) award a contract or incur expenditure which, in either case, materially affects the financial position of the Council.

(c) a bid for funding in excess of £250,000 where a further report will be submitted to the Executive for approval if the bid is successful;

(d) 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);

(e) 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

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[176] Regulation 7 of the Openness of Local Government Bodies Regulations 2014

(iv) provide for the continuation of an approved policy or Service;

(f) a proposal that is included in Budget in sufficient detail for it to be understood by interested parties; and

(g) care packages, service responses and expenditure for care and accommodation which relate to individual service users, and which are exempt.

13.14.2 Significant Decisions will only be made once the people who may be affected by it have been informed of the forthcoming decision by publishing it on the Forward Work Programme in sufficient time for them to exercise their rights to see the relevant papers and input into the decision-making process.

13.14.3 The Decision Record for a Significant Decision will set out:

(a) the name of the decision-making body;

(b) the decision made;

(c) the date the decision was made;

(d) the reasons for that decision;

(e) any personal interest declared;

(f) any dispensation that was granted in respect of a declared conflict of interest; and

(g) details of any alternative options considered

and be published within 5 clear days of the decision being taken.

13.15 What is an Operational Decision?

An Operational Decision is a decision which is neither a Key Decision nor a Significant Decision.

13.16 How is the intention to take a decision advertised?

13.16.1 The Access to Information Procedure Rules (see section 14) set out how Key Decisions and Significant Decisions will be publicised in advance of the decision being taken.

13.16.2 There is no requirement to advertise an Operational Decision in advance, however there may be such a requirement for publication of the intention to make a decision within this constitution or by law.

13.17 What records of decisions must be retained?

13.17.1 The decision maker must make, keep and retain a clear written record of any Key Decision or Significant Decision which includes:

(a) the delegating power (i.e. the Constitution, a Scheme of Sub-delegation or an express delegation in relation to a decision);

(b) a record of the decision including the date it was made;

(c) a record of the reasons for the decision; and

(d) records required by another Council procedure, e.g. Procurement and Contract Procedure Rules.

13.17.2 There is no mandatory format for recording delegated operational decisions and the decision may be evidenced by:

(a) the delegated decision report; or

(b) the records required by another Council procedure e.g. Contract Standing Orders; or

(c) some other written record (such as email correspondence).

13.18 How are delegated decisions recorded?

13.18.1 Key Decisions and Significant Decisions made under delegated authority should be recorded in writing in accordance with the requirements of the Access to Information Procedure Rules at Section 14.

13.18.2 For the avoidance of doubt, it is not necessary for an Operational Decision to be documented in writing provided that it:

(a) is within the approved Budget;

(b) does not conflict with the Budget and Policy Framework or other approved policies; and

(c) does not raise new issues of policy,

unless otherwise required by law.

13.19 Who manages the documenting of responsibility for making decisions?

A record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions (see Part 10) will be maintained by the Monitoring Officer.

13.20 What retention arrangements apply in respect of decisions?

Officers making records of delegated decisions are responsible for retaining a record of the decision as required by the Council's Retention Policy.

13.21 When can the validity of a decision be challenged?

13.21.1 The validity of a decision shall not be questioned on the grounds:

(a) that it ought to have been made by the Council or a Committee instead of another Committee or Sub-Committee or vice versa whether because the issue is or is not of corporate and / or strategic significance or for any other reason;

(b) that it ought to have been made by a different Committee or Sub-Committee because the matter falls within the delegations of that other Committee or Sub-Committee as well as the delegations of the Committee or Sub-Committee which made the decision;

(c) that it ought not to have been made by a Delegated Sub-Committee because the matter was not urgent or for any other reason;

13.21.2 The validity of a decision shall not be questioned on the grounds that the terms of an agreed protocol have not been followed.

14 Access To Information Procedure Rules

These rules apply to all Council decision making and set out how and when members of the public may attend Council meetings, as well as public rights of access to information relating to the Council. They also cover Member rights of access to information relating to Executive Decisions.

14.1 What is the scope of these Access to Information Procedure Rules?

14.1.1 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.

14.1.2 These rules do not apply to the Licensing Committee[177].

14.2 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.

14.3 Where can more information about how to access information relating to the Council be found?

14.3.1 Citizens can find more information about how to access the information to which they are entitled in the Council's Public Information and Information Requests Policy.

14.3.2 Members can find more information about how to access the information to which they are entitled in the Access to Information Procedures.

Attending Council Meetings

14.4 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 (see further paragraph 14.11).

14.5 How much notice will the Council give before a meeting?

14.5.1 The Council determines the calendar of meetings at which decisions are made in respect of Non-executive Functions for the forthcoming municipal

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[177] Section 9 of the Licensing Act 2003

year at the Annual General Meeting of Council (see paragraph 4.8.4(i)), subject to any in year amendments made by the Full Council.

14.5.2 The Mayor determines the dates and times of meetings of the Executive (see further paragraph 6.17) where decisions are made on Executive Functions.

14.5.3 The Council also publishes the Forward Work Programme, which gives at least 28 days advance notice of which Key Decisions will be determined at which meeting of the Executive (see paragraphs 6.17.19 to 6.17.21).

14.5.4 Unless a meeting is convened at short notice, the Council will give at least five clear days' notice of any meeting by posting details of the meeting on the public notice board inside the main reception of the Principal Office, and on its website.

14.5.5 Where a meeting is convened at shorter notice, details of the meeting will be published at the Principal Office and on the Council's website at the time that the meeting is convened.

14.5.6 In the event that a meeting is adjourned and reconvened, there must be at least five clear days' notice of the date of the reconvened meeting.

14.5.7 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, 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. Wherever possible, the Council will include the proposed resolution on the notice of meeting.

14.6 **How will Members be given notice of meetings?**

14.6.1 The Council will send to each Member a summons to attend a meeting, specifying the business proposed to be transacted at the meeting. The summons shall be delivered by:

(a) leaving it at, or sending it by post to the member's usual place of residence; or

(b) where the member has specified an address other than the member's usual place of residence, leaving it at, or sending it by post to that different address; or

(c) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn), sending it in electronic form to that address.

14.6.2 Except in the case of business required by law to be transacted at the annual general meeting, or other business brought before a meeting as a matter of urgency, no business shall be transacted at a meeting other than that specified in the summons.

Public Access To Meeting Documents

14.7 **What access will the public have to meeting agendas and reports before the meeting?**

14.7.1 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 Principal Office and on its website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

14.7.2 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.

14.7.3 Where copies of the agenda and reports open to the public are not made available for inspection in this way, an item of business will not be considered unless, by reason of special circumstances which shall be specified in the minutes, the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

14.8 **When will the Council provide copies of documents?**

14.8.1 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.

14.8.2 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.

14.8.3 Copies of agendas and reports which are available on the Council's website. can be downloaded free of charge.

14.8.4 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.

14.9 **How are background papers provided to the public?**

The Officer preparing the report will set out 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 the glossary) nor, in respect of reports to the Executive, the advice of a political adviser, or any draft report or document.

14.10 **How can the public inspect background papers?**

The Council will make available, on request, for public inspection for four years after the date of a formal Committee meeting one copy of each of the documents on the list of background papers.

Exclusion of Public Access

14.11 **When can members of the public be excluded from Council meetings?**

14.11.1 The public **must** be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information (for definition, see the glossary at Section 2) would be disclosed.

14.11.2 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 (see paragraph 14.12) would be disclosed.

14.11.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998[178] 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.

14.11.4 The public may also be excluded from meetings, where the meeting so resolves, in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

14.12 **When are members of the public not permitted to have access to reports?**

If the Monitoring Officer thinks fit, public access to reports which relate to items during which, in accordance with section 14.11, the meeting is likely not to be open to the public, can be excluded. Such reports will be marked "Not for Publication" and state the category of information likely to be disclosed

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[178] Human Rights Act 1998

and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

14.13 What is "exempt information"?

14.13.1 Exempt information means information falling within any of the categories set out in Table 16, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972[179]:

Table 16: Categories of Exempt Information

Category	Condition
1. Information relating to any individual.	Public interest test applies
2. Information which is likely to reveal the identity of an individual.	Public interest test applies
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt if it is required to be registered under statute, such as the Companies Acts, or the Charities Acts 2011. The public interest test applies.
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
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Public interest test applies
6. Information which reveals that the authority proposes –	Public interest test applies

[179] Local Government Act 1972

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
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

14.13.2 Information falling within any of paragraphs 1-7 in Table 16 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[180].

14.14 **What is the "public interest test"?**

14.14.1 Information which:

(a) falls within any of paragraphs 1 – 7 of Table 16 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.

14.14.2 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.

14.14.3 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?

[180] The Town and Country Planning General Regulations 1992

(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?

Private Meetings of the Executive

14.15 **How can the Executive meet in private?**

Private Executive meetings are subject to additional notification provisions as follows:

(a) The Council must give at least 28 days' notice of its intention to hold a meeting of the Executive in private and will:

(i) publish a notice of a meeting to be held in private on the public notice board in the Principal Office and on the Council's website;

(ii) include in the notice the reasons why the meeting is to be held in private;

(iii) at least 5 clear days before the private meeting, make available and publish on the website a further notice of its intention to hold the meeting in private, including details of any representations received by the Council and its response to the representations.

(b) If compliance with the notice period set out in section 14.15(a) is impracticable:

(i) the meeting may only be held in private with the agreement of the chair of the Overview and Scrutiny Board (or if the chair is unavailable or unable to act, the Chair of the Council), that:

a. the meeting is urgent and cannot reasonably be deferred; and

b. the chair of the Overview and Scrutiny Board (or the Chair of the Council, as appropriate) must be provided with a clear explanation why the meeting must be held in private; and

(ii) as soon as reasonably practicable after the Executive has obtained agreement to hold an urgent private meeting it must make available and publish a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

14.16 **Who may attend private meetings of the Executive?**

14.16.1 Executive Members will be served notice of, and be entitled to attend, all private meetings of the Executive or its Committees, whether they are members of that Committee or not.

14.16.2 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 of the relevant meeting.

14.16.3 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.

14.16.4 The Executive may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place and arrangements have been made for the Proper Officer, or their nominee, to record and publish the decisions made at the meeting.

Recording Of Decisions

14.17 **How are Executive decisions recorded?**

14.17.1 A written record will be made of every Executive Decision and published within 2 clear days of the decision being made as follows:

(a) **At a formal meeting** - the Monitoring Officer 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. This is separate to the minutes of the meeting.

(b) **By an individual Executive Member** – the Executive Member shall, as soon as reasonably practicable, instruct the Deputy Chief Officer with responsibility for Democratic Services to produce a decision record[181];

(c) **By an Officer** - subject to any restrictions concerning confidential / exempt information in these Rules, the Officer will produce a written Executive Decision Record of any Key or Significant Decisions and arrange for its publication on the Council's website together with the report in relation to the decision made.

14.17.2 Executive Decision records will reflect the information set out at paragraph 13.12.1(b).

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[181] This will usually consist of the publication of the delegated decision report submitted to the Member for consideration and the signed decision notice (drafted by the report author), completed by the decision maker.

14.17.3 No decision shall be implemented until the Call-in period (if any) has expired (see paragraph 7.6.20).

14.17.4 Where the date by which a decision made by an individual Executive Member must be implemented makes compliance with paragraph 14.17.1(b) impracticable, the decision may only be implemented in accordance with paragraph 7.6.22.

14.18 **How are Non-executive decisions recorded?**

Non-executive decisions made by Full Council or its committees or sub-committees will be documented in the minutes of the meeting at which it was made and identified by a minute number.

14.19 **How are Significant Decisions recorded?**

Where an officer makes a Significant Decision, subject to any restrictions concerning confidential / exempt information in these Rules, the Officer will produce a written Decision Record and arrange for its publication on the Council's website together with the report in relation to the decision made.

14.20 **How are Operational Decisions recorded?**

No published record is required for operational decisions where paragraph 13.18.2 applies however the decision maker must ensure that a proportionate written record of the decision is maintained.

14.21 **How are records of decisions accessed?**

The Council will make available for inspection hard copies of the following documents in accordance with its published retention schedule:

(a) In respect of decisions taken at a meeting:

(i) the minutes of a 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;

(ii) 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;

(iii) the agenda for the meeting; and

(iv) reports relating to items when the meeting was open to the public.

(b) In respect of decisions made by individual members or officers:

(i) the decision record;

(ii) the decision report.

Member Access to Information

14.22 **Do Members have access to material relating to public meetings?**

(a) All Members are entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting unless:

(i) it contains exempt information falling within categories 1, 2, 4, 5 or 7 at Table 16 above; or

(ii) it contains exempt information falling within category 3 at Table 16 above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or

(iii) it contains the advice of a political adviser or

(iv) it is a draft report or draft background paper

(v) it is not a report or a background paper.

(b) All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless:

(i) it contains exempt information falling within categories 1, 2, 4, 5 and 7 of Table 16 above; or

(ii) it contains exempt information falling within category 3 of Table 16 to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

14.23 **Do Members have access to material held by the Executive?**

Subject to paragraph 14.24, 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 public or private meeting of the Executive;

(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 1 clear day of the conclusion of the meeting, or the decision being made, as the case may be, unless the Proper Officer considers that the document discloses exempt information.

14.24 **Can Members inspect certain exempt information?**

14.24.1 Members are not prohibited 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

14.24.2 Nothing in these Access to Information Procedure Rules requires any document or a part of any document to be available for inspection if it contains the advice of a mayoral / political assistant.

14.25 **What access do Members have to material relevant to Key Decisions taken by officers?**

All Members of the Council are entitled to inspect any document in the possession or under the control of the Executive or its committees which relates to any Key Decision made by an Officer unless:

(a) it contains exempt information falling within categories 1, 2, 4, 5 or 7 at Table 16 above; or

(b) it contains exempt information falling within category 3 at Table 16 above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or

(c) it contains the advice of a political adviser or

(d) it is a draft report or draft background paper

(e) it is not a report or a background paper.

14.26 **What access do Overview and Scrutiny members have to Executive documents?**

14.26.1 Subject to section 14.26.2 below, Overview and Scrutiny members are 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 delegated authority.

The documents must be provided as soon as practicable but no later than 10 days after a request is received by the Monitoring Officer.

14.26.2 Overview and Scrutiny members are not entitled to:

(a) any document that is in draft form;

(b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise;

(c) the advice of a political or mayoral assistant; or

(d) documents subject to legal privilege or which, in the view of the Monitoring Officer, should remain confidential.

14.26.3 Where the Monitoring Officer determines that Overview and Scrutiny members 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.

14.27 **What other right of access to information do Members have?**

14.27.1 Members have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the relevant Chief Officer and are commonly known as "the Need to Know".

14.27.2 In exercising their Need to Know, members should comply with the Protocol on Member / Officer Relations (see further paragraph 9.11.24) and:

(a) avoid over-involvement in issues raised by individual constituents;

(b) be particularly careful when having direct contact with relatively junior officers, to avoid the appearance of abusing their position;

(c) justify the request in specific terms, unless circumstances exist where a Member's need to know will be presumed – for example where a

Member is on a committee and wants to inspect documents relating to that committee's business, or where the information requested is already in the public domain;

(d) only use the information for the purpose for which it was provided, and get the prior agreement of the relevant Chief Officer to any disclosures to the press or the public.

14.27.3 There are a number of factors which may limit or outweigh a Member's need to know, including:

(a) the need to know does not extend to a 'roving commission' through Council documents;

(b) the need to know would only extend to personal information in exceptional cases;

(c) draft documents compiled in the context of emerging Council policies, and draft reports, will not usually be disclosed;

(d) a Member of one party group will not have a need to know in relation to a document prepared for another party group;

(e) documents prepared specifically for one Member will not, unless they agree, normally be provided to another Member;

(f) documents will not be disclosed where the relevant Chief Officer believes that use of those documents by a Member may prejudice the Council's or the public interest;

(g) the level of resources required to deal with locating and supplying documents.

14.27.4 Whether a Member has a Need to Know will be determined initially by the Chief Officer holding the document in question, with advice from the Monitoring Officer. Party political advantage shall not be considered and the decision should not prevent the Member concerned from giving evidence in Court, or penalise the Member for so doing.

14.27.5 All internal documents and copies produced to any Member for inspection will be produced on the basis that, in the absence of malice, officers are expressly indemnified in respect of any claim in litigation that may result from such publication.

14.28 **When can the Overview and Scrutiny Board request reports?**

14.28.1 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 paragraph 13.12.1(a)(i); or

(c) the subject of an agreement under section 13.12.1(a)(ii) in the case of special urgency,

the Overview and Scrutiny Board may require the Executive to submit a report to the next meeting of Full Council in respect of that decision within such reasonable time as it specifies.

14.28.2 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 members of the relevant body. In respect of education matters this includes voting Co-opted Members.

14.28.3 Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board or the Scrutiny Panel (as appropriate).

15 Budget and Policy Framework Procedure Rules

This section sets out the process for setting the Council's Budget and Policy Framework and how this impacts decision-making.

15.1 What is the Budget and Policy Framework?

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.

15.2 What is the process for developing the Budget and the Policy Framework?

The process by which the Budget and the Policy Framework shall be developed is as follows:

Proposals from the Executive

15.2.1 Before a plan / strategy / budget is prepared, the Executive will publish initial proposals, 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.

15.2.2 The Overview and Scrutiny Board and any relevant Scrutiny Panel may participate in the consultation and have their response considered.

15.2.3 The timeline for the proposals and the consultation will be published in the Forward Work Programme.

First meeting of Full Council – consideration of the proposal

15.2.4 Once a Budget or Policy Framework proposal has been formulated, Full Council will consider the proposal and may by simple majority:

(a) adopt the proposal or approve submission to the relevant Secretary of State (where that is required); or

(b) object to the proposal and instruct the Executive to reconsider in the light of those objections.

15.2.5 If the Council accepts the recommendation of the Executive without amendment, the Council may make a decision, which has immediate effect.

15.2.6 The decision shall be published and a copy shall be given to the Executive.

Reconsideration by the Executive

15.2.7 If the Executive is instructed to reconsider the proposal, the Council will allow at least five clear days for the Executive to either submit a revised proposal or to respond to the objections in relation to the original proposal, giving reasons for the response.

15.2.8 The Executive must give particular consideration to whether a revised proposal is required.

Second meeting of Full Council – consideration of a revised proposal

15.2.9 Where:

(a) the Council has objected to a proposal of the Executive in accordance with 15.2.4(b) above; and

(b) the Executive has responded to Full Council in accordance with 15.2.7 above

the Full Council will, within ten clear days of receipt by the Head of Paid Service of the Executive's response, consider that response and may either:

(c) approve the revised proposal by a simple majority of those voting; or

(d) approve the original proposal by a simple majority of those voting; or

(e) make amendments to the revised, or the original, proposal by a two thirds majority of those voting[182].

Minimum decisions to be made in relation to the proposal

15.2.10 If neither the original, nor the revised proposal is agreed (whether in its existing or amended form), the Governance Statutory Chief Officers will advise the Council of the minimum decisions and resolutions the Council must make at that meeting as required to comply with statutory requirements, and;

(a) if the Governance Statutory Chief Officers do not identify a decision on the proposal as being required to be made at that meeting, the proposal fails and the process at 15.2.4 above must be recommenced; or

(b) if the Governance Statutory Chief Officers do identify a decision on the proposal as required to be made at that meeting, there will be no time limit on the length of the meeting and the Council shall continue to meet until it has reached a final decision on the matter.

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[182] Paragraph 7 of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001

15.2.11 The decision shall then be made public and may be implemented immediately.

Virement and in-year changes

15.2.12 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 paragraph 15.5 of these Budget and Policy Framework Procedure Rules. Any other changes to the Budget and the Policy Framework are reserved to Full Council.

15.3 In what circumstances can decisions be made outside the Budget and the Policy Framework?

15.3.1 Subject to the provisions of the Financial Procedure Rules, and subject to paragraph 15.4 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.

15.3.2 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 Governance Statutory Chief Officers 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 those Governance Statutory Chief 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 15.4 apply.

15.4 When can urgent decisions be made outside the Budget or the Policy Framework?

15.4.1 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.

15.4.2 The decision may only be taken if:

(a) in the opinion of the Chair of the Council, or in their absence the Vice Chair, it is not practical to convene a meeting of Full Council; and

(b) the Chair of the Overview and Scrutiny Board, or relevant Scrutiny Panel Chair in their absence, agrees that the decision is a matter of urgency.

15.4.3 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.

15.4.4 Following any decision made under this urgency procedure, the decision taker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

15.5 What are the rules on the use of virement?

15.5.1 The Council has established rules for virement which are set out in the Financial Procedure Rules in Section 12.

15.5.2 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 Procedure Rules.

15.5.3 Payments on account to contractors shall be made only on a certificate issued by the appropriate Chief Officer (or private architect, engineer or consultant where they are engaged by the Council) or other Officer nominated in writing for the purpose.

15.5.4 Before the appropriate Chief Officer or duly authorised person issues a final certificate of payment under a contract, the Chief Finance Officer shall be notified and have the right to examine the contractor's final account, together with other such documents as the Chief Finance Officer may consider necessary. The appropriate Chief Officer shall notify the Chief Finance Officer in writing on the satisfactory completion of the maintenance period under a contract so that any performance bonds may be released.