South Tyneside Council

CONSTITUTION

Version 6 – May 2022

Version Control Sheet

This document (version 6 – May 2022) supersedes the December 2021 Constitution (version 5).

To maintain effective version control, this version control sheet will accompany any future issue of the Constitution. The version number is shown in the bottom left-hand corner of each page.

An up-to-date version of the Council's Constitution will always be available on South Tyneside Council's website.

Description	Date	Most Recent Version
Constitution adopted by South Tyneside Council	May 2019	Version 1
Various in-year changes agreed at the Council meeting on 24 October 2019	November 2019	Version 2
Various and significant changes to be agreed at the Annual Meeting of Council on 18 May 2021	May 2021	Version 3
Minor revisions and amendments and those agreed at the Meeting of Council on 22 July and 6 September 2021	September 2021	Version 4
Minor revisions and amendments and those agreed at the Meeting of Council on 21 October and 25 November 2021	December 2021	Version 5
Annual Review and Update	May 2022	Version 6

Making Changes to the Constitution

The Council's designated Monitoring Officer is statutorily required to review the Constitution at least annually.

For details of how an Elected Member or Officer can propose a change to the Constitution and the approval process please contact the Monitoring Officer: monitoring.officer@southtyneside.gov.uk

CONTENTS **Page No.**

PART A	**SUMMARY & EXPLANATION**	6
	Armed Forces Covenant	13
	Committee Structure Chart	16
	Corporate Leadership Team Structure Chart	17
PART B	**ARTICLES OF THE CONSTITUTION**	18
Article 1	The Constitution	19
Article 2	Members of the Council	20
Article 3	Members of the Public and the Council	24
Article 4	Full Council	26
Article 5	Chairing the Council	34
Article 6	The Leader of the Council	35
Article 7	The Cabinet	39
Article 8	Scrutiny of Decisions	41
Article 9	Regulatory and other Committees	53
Article 10	The Pensions Committee	78
Article 11	The Community Area Forums	82
Article 12	The Standards Committee	93
Article 13	South Tyneside Health and Wellbeing Board	97
Article 14	Joint Arrangements	104
Article 15	Officers	107
Article 16	Decision Making	109
Article 17	Review and Revision of the Constitution	112
Article 18	Suspension, Interpretation and Publication of the Constitution	113

		Page No.
PART C	**RESPONSIBILITY FOR FUNCTIONS**	115
Section 1	Scheme of Delegations	118
Section 2	Proper Officer Roles	127
Section 3	Officer Delegation Scheme and List of Authorised Officers	
	Schedule A - List of employees authorised to exercise delegated functions	136
	Schedule B – List of employees authorised to appoint to appropriate posts under their control	141
Section 4	Bodies outside of the Council	145
PART D	**RULES OF PROCEDURE**	151
Section 1	Council Procedure Rules	152
Section 2	Executive Procedure Rules	189
Section 3	Scrutiny Procedure Rules	204
Section 4	Access to Information Procedure Rules	213
Section 5	Budget and Policy Framework Procedure Rules	232
Section 6	Procurement Procedure Rules	239
Section 7	Employment Procedure Rules	260
Section 8	Financial Procedure Rules	265
PART E	**CODES AND PROTOCOLS**	280
Section 1	Introduction	282
Section 2	Code of Conduct for Elected Members	283
	Dispensation Process and Application Form	302
Section 3	Procedure for dealing with allegations of breaches of the Members Code of Conduct	308

Section 4	Protocol for Member/Officer Relations	328
Section 5	Protocol on Member Access to Information and Council documents	345
Section 6	Protocol on Virtual Meetings	346
Section 7	Protocol on Use of the Council's Resources and Support for Members	350
Section 8	Protocol on Press, Publicity and Publications	351
Section 9	Protocol on Use of Social Media by Members	353
Section 10	Employees Code of Conduct	358
Section 11	Planning Protocols	374
Section 12	Format and Considerations Relevant to a Hearing Before the Licensing Committee	388
Section 13	Guidance for Councillors on membership of Outside Bodies	391
Section 14	Protocol on Gifts and Hospitality	398
Section 15	Protocol on Councillor Exit Procedure	405
Section 16	Protocol between the Monitoring Officer of South Tyneside Council and Northumbria Police	409
PART F	**MEMBERS' ALLOWANCES SCHEME**	415

PART A

SUMMARY & EXPLANATION

PART A - SUMMARY AND EXPLANATION

1. INTRODUCTION

South Tyneside is one of the five metropolitan boroughs of Tyne and Wear situated in the North East of England. The borough is divided geographically into 18 areas, which are called wards. Councillors are elected to represent citizens that live and work within the borough, with three Councillors elected to serve each ward. Councillors are usually elected for a 4-year period.

2. THE COUNCIL'S CONSTITUTION

2.1 The Council's Constitution sets out in detail how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, whilst others are a matter for the Council to choose. This edition of the Constitution is current as of May 2022. The Constitution is reviewed at least annually, and Full Council agree any substantial changes.

2.2 There was an Annual Review of the Constitution by the Constitution Committee and the Monitoring Officer in readiness for the Annual Meeting of the Council in May 2022.

2.3 The Constitution is divided into Articles, which set out the basic rules governing the Council's business. More detailed procedures, codes of practice and responsibility for functions are provided in different sections of the Constitution.

2.4 In this Constitution, the term "the Council" will be used when referring to South Tyneside Council as a corporate body. The term "Authority" may also be used. The term "Full Council" or "Borough Council" will be used when referring to the formal meeting of all Elected Members.

2.5 These Constitutional arrangements will:

- Facilitate the community leadership role of the Council.
- Promote partnership working with other public bodies, residents and stakeholders.
- Provide enhanced opportunities for residents to be involved in decision making.
- Assist in achieving improvements in services and to drive continuous improvement to Council services, having regard to a combination of economy, efficiency and effectiveness.
- Help the Council to deliver its vision and its priority outcomes. The South Tyneside Vision and Strategy is currently undergoing a revision and consultation process, but our current vision and priority outcomes are:

- Strong and Independent Families
- Healthier People
- A Regenerated South Tyneside with increased businesses and jobs
- Better Housing and Neighbourhoods
- Better Education and Skills
- Increasing Prosperity
- Protect Vulnerable Children and Adults
- A Clean and Green Environment
- Less Crime and Safer Communities

2.6 Assist the Council in achieving the Leadership Community Priorities of:

- Support our young people in need
- Support families and older or vulnerable populations
- Create the conditions for economic recovery and investment
- Support all out town centres, villages, high streets and hospitality
- Invest in our natural and built environment

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

3. WHAT'S IN THE CONSTITUTION?

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

- Article 1, which sets out the purpose of the Constitution
- Articles 2 – 18 explain how key parts of the Council operate and the rights of South Tyneside residents.
- These Articles are:
  - Article 2 – Members of the Council
  - Article 3 – Members of the Public and the Council
  - Article 4 – Full Council

- Article 5 – Chairing the Council
- Article 6 – The Leader of the Council
- Article 7 – The Cabinet
- Article 8 – Scrutiny of Decisions
- Articles 9 – 13 Committees of the Council
- Article 14 – Joint Arrangements
- Article 15 – Officers
- Article 16 – Decision Making
- Article 17 – Review and Revision of the Constitution
- Article 18 – Suspension, Interpretation and Publication of the Constitution

4. HOW THE COUNCIL OPERATES

4.1 The Council is composed of 54 Councillors (sometimes called "Elected Members" or "Members") elected in thirds in three out of every four years. There are 18 wards within the borough, each with three seats (i.e., three Councillors). Councillors are democratically accountable to residents in their ward. However, the overriding duty of a Councillors is to the whole community of the Borough. The names and contact details of all Councillors together with membership of political groups, Committee membership and outside organisation memberships are published on the Council's website at www.southtyneside.gov.uk

4.2 All Councillors are required to agree to observe a Member's Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Member's Code of Conduct and oversee and promote high standards of conduct by Councillors.

4.3 All Councillors meet together as Full Council. Meetings of Full Council are open to the public. Here Councillors decide the Council's overall strategic policies and set the budget each year. Full Council appoints the Leader of the Council, who serves a four-year term. Full Council is also responsible for appointing a number of regulatory and other committees. The Council also decides on the delegation of non-executive functions to Committees and to Council Officers.

4.4 The Leader of the Council decides the number of Elected Members who will sit in the Cabinet, appoints them and appoints one of them as the Deputy Leader of the Council. The Leader of the Council also decides the process for

decision making within the Cabinet and the delegation of executive functions to the Cabinet, individual Cabinet Members, Committees of the Cabinet, and Officers. The Leader of the Council is responsible for appointing between two (2) and nine (9) Councillors to serve on the Cabinet and for deciding whether to allocate any areas of responsibility to these Councillors. The Cabinet (also known as the "Executive") are responsible for making key decisions and implementing the Council's policies and budget, as required. These are sometimes referred to as "Executive Functions".

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

5. HOW DECISIONS ARE MADE

5.1 All Executive decision-making power is exercisable by the Leader of the Council. As referenced above, the Leader of the Council is required to appoint between two and nine Executive Members (sometimes called "Lead Members" or "Cabinet Members") who, together with the Leader of the Council, make up the Cabinet. The Leader of the Council must decide which functions to delegate to the Cabinet or Cabinet Members or Officers.

5.2 When major executive decisions are to be discussed or made (known as "Key Decisions"), these are published in the Forward Plan in so far as they can be anticipated. If these key decisions or indeed any decisions, are to be discussed with Council Officers at a meeting of the Cabinet, this will be open for the public to attend, except in limited circumstances. A meeting open to the public could include virtual meetings that the public can hear and where possible see (if permissible legally).

5.3 The Council must adopt a principle of openness in operating this Constitution and accordingly the Council. Cabinet and all Committees and Sub-Committees will hold their meetings in public, except when "confidential" or "exempt" business is to be discussed (i.e., personal or confidential matters - see Part D Section 4 Access to Information for what this means in practice).

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

6. SCRUTINY

6.1 Full Council holds the Cabinet to account by appointing an Overview and Scrutiny Committee and a number of scrutiny Sub-Committees, which monitor decisions made by Cabinet and propose policy changes across all of the Council's areas of operation.

6.2 The Overview and Scrutiny Co-ordinating and Call-In Committee, the People Select Committee and Place Select Committee support the work of the Cabinet

and the Council as a whole. There are several Scrutiny Performance Panels that also support the scrutiny function of the Council. Any Elected Member who does not sit on the Cabinet (these are often referred to as "Non-Executive Members") is eligible to be a member of a Scrutiny Committee, Select Committee or Scrutiny Performance Panel.

6.3 These Committees and Sub-Committees will prepare reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitor the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Overview and Scrutiny Committee to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider a decision. If the Cabinet decides not to change a decision after it has been 'called in', then the Overview and Scrutiny Committee may refer the decision to Full Council for further consideration. They may also be consulted by the Cabinet or Full Council on forthcoming decisions and the development of policy, particularly those decisions included within the Forward Plan.

6.4 The two Select Committees each link to a number of the Council's priorities.

6.5 Scrutiny allows members of the public greater opportunity to have a say on Council matters, by taking part in scrutiny investigations.

7. THE COUNCIL'S EMPLOYEES

7.1 The Council employs people to give advice, implement decisions and manage the day-to-day delivery of its services. These are referred to as Council "Officers".

7.2 Officers are politically neutral; they advise on policy and implement Council decisions. Some Officers have a specific statutory duty to ensure that the Council acts within the law and uses its resources wisely.

7.3 A Protocol governs the relationships between Officers and Elected Members (see Part E Section 4).

8. ARRANGEMENTS FOR AUDIT

8.1 The Council's Director Business and Resources is responsible for conducting a continuous internal audit of the financial affairs of the Council, for ensuring its financial management is adequate and effective, ensuring that sound systems of risk management are in place and for maintaining an adequate and effective system of internal audit (as required by the Accounts and Audit (England) Regulations 2015).

8.2 The Council also has an internal audit service. Further information on the Council's accounting arrangements and audit are available from the Director of Business and Resources.

8.3 The responsibilities of the external auditor are derived from statute (principally the). The Code of Audit Practice, prepared by the National Audit Office, prescribes the way in which external auditors must carry out their functions. The Council is subject to external audit of its financial affairs. Currently, Ernst and Young are the Council's external auditors.

8.4 External auditors have an important role to play in ensuring that there is accountability for public money, stewardship of public resources and effective corporate governance. In particular, the external auditor will:

- provide an opinion on the accounts and financial statements of the Council;
- review the arrangements that the Council has in place to achieve best value through economy and efficiency, and whether the Council secures economy, efficiency and effectiveness in exercising Council's functions;
- ensure that arrangements for the publication of performance information are satisfactory;
- give electors the opportunity to raise questions about the accounts and deal with any objections raised pursuant to the provisions of the Audit Commission Act 1998; and
- deal with Advisory Notices under the Local Government Act 2000, where the auditor considers that there may be the potential for unlawful expenditure.

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

8.6 The Council may also, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs, who have statutory rights of access.

9. PUBLIC RIGHTS

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

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

9.3 Residents have the right to:

- vote at local elections if they are registered on the electoral register;

- contact their local Councillor about any matters of concern to them;
- be able to access a copy of this Constitution on the Council's website;
- attend meetings of the Council, its Committees, Sub-Committees and the Cabinet, except where, for example, personal or confidential matters are being discussed in accordance with procedures in Part D Section 4 of this Constitution;
- petition to request a referendum for an Elected Mayor;
- in the case of members of the public resident in the Council's area, participate in submitting written questions to Council;
- find out, from the Council's Forward Plan, what major decisions are to be discussed by the Council, Cabinet or Officers, and when;
- see reports and background papers, and any record of decisions made by the Council and Cabinet unless the matter is to be considered in confidential session in accordance with procedures in Part D Section 4 of this Constitution;
- use the Council's Complaints Procedure regarding any aspect of the Council's services, details of which are published on the Council's website at www.southtyneside.gov.uk/complaints or from Customer Services by telephoning the Council on 0191 427 7000;
- complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after exhausting the Council's own complaints process;
- complain to the Director of Governance & Corporate Affairs (Monitoring Officer) and/or Corporate Lead Legal and Governance (Deputy Monitoring Officer) in writing if they have evidence which they think shows that a Councillor has not observed the Members' Code of Conduct;
- inspect the Council's accounts (subject to certain limitations) and make their views known to the external auditor; and
- access the name, contact details and political group of all Elected Members.

10. ARMED FORCES COVENANT

10.1 South Tyneside Council and its partners signed a Covenant with the Armed Forces Community in the borough of South Tyneside, which sets out the Council's commitment to actively support its serving personnel, veterans and their families by:

- encouraging local communities to support the Armed Forces Community in their areas, and vice versa;

- promote understanding and awareness amongst the public of issues affecting the Armed Forces Community;

- recognise and remember the sacrifices made by the Armed Forces Community;

- encourage activities which help to integrate the Armed Forces Community into local life;

- ensure South Tyneside's service personnel, veterans and their families are not at a disadvantage when they try to access public services such as education, employment, housing, or health care; and

- ensure South Tyneside's service personnel, veterans and their families are given special consideration where appropriate, especially for those who have given most, such as the injured and the bereaved.

10.2 The Council has embedded this commitment in the South Tyneside Council Strategy. As part of this commitment, the Corporate Lead Human Resources shall be responsible for ensuring that the Council fulfils its commitment as a Gold Award status employer in respect of the Ministry of Defence Employer Recognition scheme.

11. KEY CONTACT POINTS

11.1 Additional information relating to the contents and processes within the Constitution can be obtained by contacting the Democratic Services team.

Democratic Services
South Tyneside Council
Town Hall and Civic Offices
Westoe Road,
South Shields
South Tyneside
NE33 2RL

E-mail: Democratic.Services@southtyneside.gov.uk

- Elected Members of the Council

  https://www.southtyneside.gov.uk/article/38350/Councillors-and-committees

- Chief Executive/ Directors / Heads of Service / Corporate Leads

  https://www.southtyneside.gov.uk/article/38559/South-Tyneside-Council-management-structure

- Commission for Local Administration: Local Government and Social Care Ombudsman, PO Box 4771, Coventry, CV4 0EH. The Ombudsman's website can be found at www.lgo.org.uk

COMMITTEE STRUCTURE

South Tyneside Council
54 Members

Cabinet

Leader of the Council	Deputy Leader	Lead Member	Lead Member	Lead Member	Lead Member	Lead Member	Lead Member	Lead Member
	Culture, Leisure and the Visitor Economy	Adults, Health and Independence	Housing and Community Safety	Children, Young People and Families	Transport and Neighbourhoods	Voluntary Sector, Partnerships and Equalities	Economic Growth, Skills and Climate Change	Governance Finance and Corporate Services

Non Exec Committees

- General Purposes
- Pensions
  - Local Pensions Board
- Human Resources
  - Senior Officer Appointment Subcommittee
- Appeals
- Constitution

Regulatory Committees

- Standards
- Audit
- Licensing / Regulatory
- Planning
- Common Land, Town & Village Green
- Health and Wellbeing Board

Overview and Scrutiny Co-ordinating and Call-In Committee

- 'People' Select Committee Children, Families and Adults Health and Wellbeing
- 'Place' Select Committee Regeneration, Business, Transport, Neighbourhoods and Communities
- Joint Health Scrutiny

Scrutiny Performance Panels

- Contracts Performance Panel
- Children and Adults Safeguarding Panel
- Education and Skills Performance Panel
- Housing Performance Panel

- West Shields, Cleadon and East Boldon
- East Shields and Whitburn
- Jarrow and Boldon
- Hebburn
- Riverside

Community Area Forums

CORPORATE LEADERSHIP TEAM STRUCTURE CHART

Chief Executive
Jonathan Tew

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

Director of Business and Resources
Stuart Reid

- Statutory Section 151 Officer
- Audit, Risk and Insurance
- Customer Services
- Culture and Leisure
- Digital and ICT Services
- Finance
- Human Resources
- Pensions
- Revenues and Benefits

Director of Adult Social Services and Commissioning
Vicki Pattinson

- Adult Social Care
- Integrated Community Services
- Safeguarding Adults Unit
- Targeted Review
- Adult Mental Health and Learning Disabilities

Director of Children's Services
Shona Gallaher

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

Director of Public Health
Tom Hall

- Public Health
- Public Health knowledge, research and intelligence

Director of Regeneration and Environment
George Mansbridge

- Asset Management
- Area Management and Highways Engineering
- Business, Employment and Skills
- Economic Regeneration
- Housing Policy
- Planning, Built Design, Development & Control
- Regulatory Services
- Environmental Sustainability
- Waste Services
- Fleet Services

Director of Governance and Corporate Affairs
Nicola Robason

- Statutory Monitoring Officer
- Data Protection Officer
- Regional and National relations
- Legal, Elections and Democratic Services
- Strategy, Performance, Insight and Change Management
- Engagement and Communications

PART B

ARTICLES OF THE CONSTITUTION

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.1. Powers of the Council

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

1.2. Purpose of the Constitution

The purpose of the Constitution is to:

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

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

1.2.3 provide clearly stated opportunities for the involvement of members of the public and other stakeholders in the Council's decision making;

1.2.4 provide a framework to enable Councillors to represent their constituents more effectively;

1.2.5 enable decisions to be taken efficiently and effectively;

1.2.6 provide a means of improving the delivery of services to the community;

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

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

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

1.3 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council must always choose the option that is closest to the purposes stated in section 1.2 above.

The Council will monitor, evaluate and review the operation of the Constitution as set out in Article 17.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition

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

2.2 Eligibility

Only registered voters of the borough or those living or working in South Tyneside will be eligible to hold the office of councillor. Any person who holds paid office or employment for the council, or for another local authority in a political restricted post cannot be a councillor. Any person who is the subject of a bankruptcy restrictions order or interim order or has been sentenced to prison for three months or more (including suspended sentences) during the five years before election day or has been convicted of a corrupt or illegal practice by an election court is disqualified from being a councillor.

2.3 Election and terms of Councillors

Under normal circumstances, the regular election of councillors will usually be held on the first Thursday in May in thirds, three years out of every four years. Councillors are usually elected for a term of four years. The term of office of Councillor will start on the fourth day after being elected and will finish on the fourth day after the date of the next election at which their seat comes up for re-election.

2.4 Roles and functions of all Councillors

Councillors are elected to represent the local community, which is why they must either live or work in the Council area. Becoming a councillor is both a rewarding and privileged form of public service. Councillors are in a position to make a difference to the quality of other people's daily lives and prospects. Being an effective Councillor requires both commitment and hard work.

2.4.1 A councillor's role and responsibilities include:

a) developing strategies and plans for the area;
b) serving the community – helping with problems and ideas;
c) representing the community;
d) working with others;
e) decision making and reviewing decisions;
f) talking to the community about their needs and about what the Council is doing; and
g) active engagement with community groups in order to best serve the community.

2.4.2 Councillors do this by:

a) Talking to constituents by phone, email and letter, social media, home visits, drop-in sessions, street or community meetings and local events;
b) Attending formal Council meetings;
c) Managing casework – where people come to them for help with problems;
d) Working on specific Council projects with other Councillors and Council Officers;
e) Representing the Council on outside organisations such as charities and public bodies; and
f) Participating in community meetings and events.

2.4.3 All Councillors will:

a) ensure that decisions are taken with consideration to the views of all stakeholders;

b) represent the views of all constituents to the Council;

c) represent the views of stakeholder groups to the Council;

d) provide a regular, advertised, referral and direct advice service for constituents and to deal with problems raised by them carefully and promptly;

e) promote consultation with all stakeholders, encourage their involvement in the decisions of the Council, particularly through developing the role and work of the Council's Community Area Forums;

f) promote the Council's values, aims, ambitions and objectives;

g) represent the Council as required on other bodies;

h) comply at all times with the requirements of the law and the Members' Code of Conduct;

i) contribute to, and participate in, the decision-making processes of the Council, including determination of the Budget and Policy Framework, through membership of Full Council, its Committees and other bodies;

j) for Councillors who are not members of the Cabinet, to hold the Cabinet to account through their work as members of Full Council and in Scrutiny Committees;

k) participate in policy development and review work through Scrutiny Commissions and Task Groups;

l) participate in the work of their appropriate political group;

m) participate in Members' training and development; and

n) participate in the work of advisory/support groups for Cabinet members (if required and appropriate).

2.5 Rights and duties of Councillors

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

2.5.2 Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence by an Officer of another Elected Member to anyone other than a Councillor or Officer entitled to know it. (i.e., personal or confidential matters). Note Part D Section 4 Access to Information for what this means in practice.

2.6 Conduct

2.6.1 Councillors will act in accordance with the obligations contained in the Code of Conduct for Elected Members (Part E Section 2) at all times and will observe the Code of Conduct and the Protocol for Member/Officer Relations, Protocol on Use of Social Media by Members and all other relevant Protocols set out in Part E of this Constitution.

2.6.2 Where it is alleged that there has been a breach of any Code or Protocol this will be responded to in accordance with the relevant Code or Protocol. Elected Members of the Council will complete Code of Conduct training to ensure knowledge is up to date. The Standards Committee and the designated Monitoring Officer will ensure that training is made accessible and available at a time convenient for all Elected Members to attend and seek to ensure that all Elected Members participate.

2.7 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in this Constitution (Part F) as approved and adopted by the Council after considering recommendations from the Council's Independent Remuneration Panel. The Members' Allowances Scheme is subject to annual review by the Independent Remuneration Panel.

2.8 Member Development

The Council is committed to developing Elected Members by providing learning and development opportunities to enhance skills and knowledge supporting effective community leadership and the undertaking of Council business. The Council is committed to providing a range of awareness and training opportunities. Councillors may draw any matters of concern to the attention of the Standards Committee or designated Monitoring Officer who, where the

Monitoring Officer considers appropriate, may draw it to the attention of the leaders of the political groups of the Council and the Chief Executive.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 3 - MEMBERS OF THE PUBLIC AND THE COUNCIL

3.1 Rights of Members of the Public

The rights of members of the public are set out in this Article. Their rights to information and to participate in Council business are explained in more detail in the Access to Information Procedure Rules in Part D Section 4 of this Constitution.

Members of the public on the electoral roll for the area have many rights including:

a) contacting their local Councillor about any matters of concern to them;

b) attending meetings of the Council, its Committees and Sub-Committees and the Cabinet, except where confidential or exempt information is being discussed;

c) commenting or complaining to the Council using the Council's complaint procedure relating to anything it has done, or failed to do; and

d) complaining to the Monitoring Officer if they have evidence that they believe shows that a Councillor has not followed the Members' Code of Conduct.

3.2 Voting and petitions

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

a) vote at elections if they are registered;

b) petition to request a referendum for Mayoral arrangements**;**

c) sign any other petition they wish to support;

3.3 Information

Members of the public have the right to:

a) attend and record meetings of the Council and its Committees except where confidential or exempt information (as detailed in the Access to Information Rules in Part D section 4) is likely to be disclosed, and the meeting is therefore held in private. Anyone planning to record meetings of the Council and its Committees through any audio, visual or written methods can do so only from the public gallery providing at all times that they do not disturb the conduct of the meeting;

b) attend and record meetings of the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is

therefore held in private. Anyone planning to record meetings of the Cabinet and its Committees through any audio, visual or written methods can do so only from the public gallery providing at all times they do not disturb the conduct of the meeting;

c) find out from the Forward Plan what key decisions are to be taken by the Council, who is going to take them, and when;

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

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

3.4 Complaints

Members of the public have the right to complain to:

a) the Council itself under its complaints scheme;

b) the Local Government and Social Care Ombudsman (after first using the Council's own complaints scheme);

c) the Director of Governance & Corporate Affairs and/or Corporate Lead Legal and Governance the about a breach of the Members Code of Conduct.

3.5 Residents' responsibilities

Residents and other members of the public must act in a proper and respectful manner to all Councillors and Officers. They must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers. They must not speak at any meeting of the Council or its Committees unless invited to do so and must not create any disturbance.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 4 - FULL COUNCIL

4.1 Role

4.1.1 The Full Council is a formal meeting of all Councillors. Therefore, membership is all 54 Elected Members. Quorum is 14 Elected Members. Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax, for all of the functions not the responsibility of the Cabinet and approving a number of key plans and strategies, which together form the Policy Framework. Full Council must also by law take decisions on a number of other specific matters. Full Council provides a central forum for debate and gives the opportunity for Councillors to ask questions about the Council or matters affecting the borough.

4.1.2 A meeting of Full Council is one which all 54 Councillors are normally entitled to attend and to speak and vote. It will carry out some functions itself, but others will be delegated to Committees or named Officers (See Part C Section 1 Scheme of Delegations).

4.1.3 There are three types of Full Council meeting:

- the Annual Meeting;
- Ordinary Meetings;
- Extraordinary Meetings;

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

4.2 Functions of the Council

Only the Council will exercise the following functions:

a) adopting and changing the Constitution;

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

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

d) making decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;

e) appointing the Mayor and the Deputy Mayor;

f) appointing and removing the Leader of the Council;

g) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them including determining which Committees, Sub-Committees, Panels, working parties, Boards, etc. shall be established as standing committees, the number of members (voting and non-voting) that each consists of, whether substitute members will be appointed and making the necessary appointments to those committees (Except as expressly provided to the contrary at Article 10.8.20);

h) appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is an executive function (Cabinet function) or has been delegated by the Council;

i) adopting a Scheme for Members' Allowances;

j) changing the name of the Council's area;

k) conferring the title of Freedom of the Borough;

l) confirming the appointment of the Head of Paid Service; Chief Finance Officer (Section 151 Officer) and designating the Monitoring Officer and the taking of any disciplinary action against these Officers and the designating of "Proper Officers";

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

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

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

p) adopting a Member's Code of Conduct for Elected Members;

q) taking decisions in respect of functions which are not the responsibility of the Leader and which have not been delegated by the Council to a Committee, Sub-Committee or Officer;

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

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

t) to provide a means whereby Councillors may ask questions of matters relevant to the Council's functions and to bring forward motions for debate;

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

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

w) to consider reports on lawfulness and maladministration;

x) to consider decisions referred from the Overview and Scrutiny Co-ordinating and Call-in Committee in respect of executive functions where decisions have not yet been implemented and the Overview and Scrutiny Committee considers the decisions may be contrary to the Council's Budget or Policy Framework;

y) to receive reports from the Leader of the Council or Cabinet on urgent decisions contrary to the Policy Framework;

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

aa) to set the Council Tax;

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

cc) questions on Police or Fire Authority matters;

dd) applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements; and

ee) all other matters which, by law, must be reserved to the decision of Full Council as a whole.

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

4.3 Plans and Budgets

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

4.4 Budget

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

4.5 Policy Framework

The Council maintains a suite of plans, strategies and other key documents which together provide a policy framework which steer medium and long-term activity. These include a number of documents which are required by law, as well as locally agreed plans, and strategic documents that have been co-produced or shaped by consultation with partners, residents and other stakeholders.

The policy framework is a flexible, constantly evolving set of plans, with different components developed, removed or revised in line with emerging legislation and changing local priorities.

The South Tyneside Vision and Strategy is currently undergoing a revision and consultation process, with the South Tyneside Council 12 Month Delivery Plan serving as the key overarching Council Plan for the 2022-23 year.

By service area, other notable elements of the policy framework include:

ADULT SOCIAL CARE:

- 'Living Better Lives' Adult Social Care Strategy
- Market Position Statement for South Tyneside
- South Tyneside 2021-24 Commissioning Priorities
- South Tyneside Carer's Strategy
- Special Education Needs and Disabilities Commissioning Strategy
- Learning Disabilities Strategy

CHILDREN AND FAMILIES

- Children and Families Vision and Strategy (*Under development to replace Best Start in Life Plan)*
- Placement Sufficiency Strategy
- Corporate Parenting Strategy
- Stronger Together SEND Strategy
- Early Help Strategy (*Under development*)
- Inclusion Charter (*Under development*)

- Children and Families Social Care Self-Assessment
- Children's Social Care Supervision Policy

PUBLIC HEALTH:

- Health and Wellbeing Strategy
- Joint Strategic Needs and Assets Assessment
- Loneliness and Isolation Strategy
- Domestic Abuse Strategy
- Dementia Strategy
- Child and Adolescent Mental Health Services (CAMHS) Strategy
- Autism Strategy
- 'Getting the Measure Right' Alcohol Harm Reduction Strategy
- Oral Health Strategy
- Physical Activity Strategy

REGENERATION AND ENVIRONMENT:

- Local Development Framework and Local Plan (encompassing Core Strategy, South Shields Town Centre and Waterfront Area Action Plan, Central Jarrow Area Action Plan, Hebburn Town Centre Area Action Plan, International Advanced Area Action Plan and Emerging Local Plan Pre-Publication Draft)
- Economic Recovery Plan
- Integrated Housing Strategy
- Housing Allocations Policy
- Tenancy Strategy (*Under development*)
- Rough Sleeper Strategy (*Under development*)
- Homelessness Strategy (*Under development*)
- Fuel Poverty Strategy
- Sustainable South Tyneside Sustainability Strategy
- Local Nature Recovery Strategy (*Under development*)
- Digital Infrastructure Strategy
- South Tyneside Infrastructure Delivery Plan
- Local Walking and Cycling Infrastructure Plan
- Electric Vehicle Charging Strategy (*Under development*)
- Local Transport Plan for South Tyneside (*Under development*)
- Road Safety Strategy (*Under development*)
- Flood and Coastal Risk Management Strategy
- Gambling and Licensing Policy (Statement of Licensing Policy)
- Taxi and Private Hire Licensing Policy
- Asset Strategy – Land and Buildings
- Tree and Woodland Strategy
- Food Action Plan (*Under development*)
- Air Quality Strategy (*Under development*)
- Waste Strategy (*Under development*)
- South Tyneside Libraries Strategy
- Cultural Strategy

- Making Communities Safer Community Safety Partnership Plan (Partnership Plan)
- South Tyneside Safeguarding Plan (Partnership Plan)
- South Tyne and Wear waste Management Partnership Joint Municipal Waste Management Strategy (Partnership Plan)

BUSINESS AND RESOURCES

- Medium Term Financial Plan
- Capital Strategy
- Procurement Strategy
- Digital Strategy
- Organisational Development Strategy
- Employee Wellbeing Strategy
- Apprenticeship Strategy (*Under development*)
- Equality, Diversity and Inclusion Strategy (*Under development*)
- Risk Management Strategy (*Under development*)
- Counter Fraud Strategy (*Under development*)
- South Tyneside Destination Management Plan
- Modern Slavery Strategy
- Tyne and Wear Pensions Investment Strategy

GOVERNANCE AND CORPORATE AFFAIRS

- Change Programme
- Third Sector Strategy
- Community Engagement Strategy (*Under development*)
- Tourism Marketing Strategy (*Under development*)
- Inclusive Growth Strategy (*Under development*)

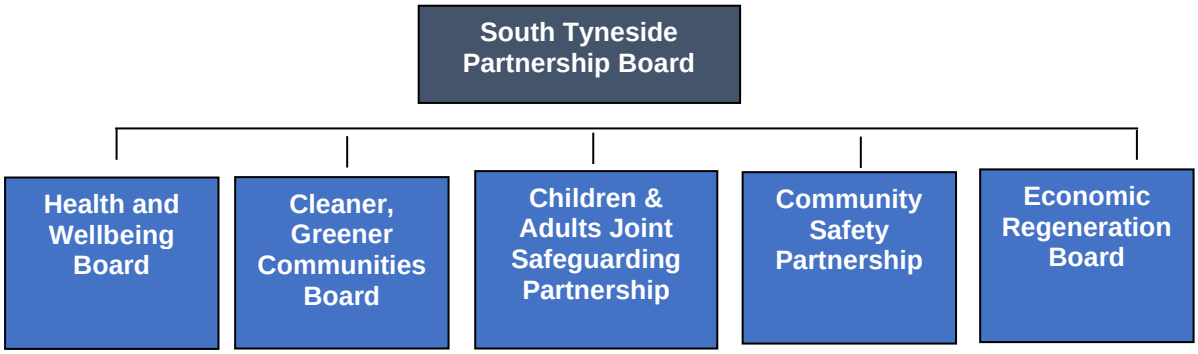
Any plan or strategy required by law to be sent to a Minister of the Crown for approval will be approved or adopted in draft by Full Council and sent to the Minister for final approval. The Cabinet will have responsibility for amending, varying, revoking, or modifying any such plans or strategies as required by the Minister from whom approval is sought. A number of statutory plans are prepared under partnership arrangements. These need to be negotiated and agreed by the relevant partners. Full Council should not usually overturn any plans and strategies already agreed with local partners provided that the Budget and Policy Framework have been complied with.

The Budget and Policy Framework seeks to ensure consultation with Councillors who are not members of the Cabinet on initial proposals for these plans so that their views can feed into the development of these plans and strategies. The Council can consider a review of plans and strategies included in the Policy Framework, through a recommendation of the Constitution Committee. The Council can carry out a review at the Annual Council meeting of plans and strategies included in the Policy Framework. As part of any review, Full Council will consider whether or not any of the “local choice” plans and strategies should be removed from the Policy Framework and/or whether or not any other permitted “local choice” plans and strategies should be added to the “local choice” part of the

Policy Framework. Any amendments to the Budget and Policy Framework will be approved in accordance with Article 16 (Decision Making) of this Constitution. The Council's Director Governance and Corporate Affairs will maintain a publicly accessible list of all of those plans and strategies contained in the Policy Framework.

4.6 South Tyneside Partnership

The South Tyneside Partnership brings together public, private and voluntary Sector organisations with the aim of improving the quality of life for people living and working in South Tyneside. The South Tyneside Partnership is fundamentally committed to working together to improve outcomes for the residents of South Tyneside. The Partnership contributes towards the development of the South Tyneside Strategy, which sets out key objectives and ambitions for the Borough to which respective partners work. The Partnership is currently made up of the following Boards:



4.7 North East Local Enterprise Partnership

The North East Local Enterprise Partnership (NELEP) is a cross-sector partnership with membership drawn from the public sector (the 5 Tyne and Wear authorities, Northumberland County Council and Durham County Council), the private sector, as well as higher and further education, whose vision is to promote and develop economic growth in the North East. In addition, it seeks to rebalance the economy and create a premier location for low carbon, sustainable, knowledge-based private sector-led growth and jobs. The key roles of the NELEP are:

a) to lobby Government on issues of economic importance to the North East;

b) to act as an advocate and champion for business and community interests;

c) to provide strategic economic leadership and local accountability;

d) to demonstrate added value and efficiency; and

e) to commit to working across local administrative boundaries.

4.8 North East Combined Authority

The North East Combined Authority (NECA) is the legal body that brings together the four councils which serve County Durham, Gateshead, South Tyneside and Sunderland. NECA works closely with the NELEP to create the conditions for economic growth and new investment. NECA has a number of portfolios to deliver this, including:

- Transport
- Finance and Skills & Employment
- Economic Development and Digital

The North East Joint Transport Committee brings together a total of seven members from each of the Authorities of the North East region; four Members from NECA and three Members from the North of Tyne Mayoral Combined Authority. NECA also supports Invest North East England.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 5 – CHAIRING THE COUNCIL

5.1 Ceremonial Role

The Mayor is the ceremonial head of the Council and its representative at civic and social occasions. The role is separate from that of the Leader of the Council who speaks for the Council on all aspects of policy and Cabinet business. The ceremonial Mayor is not an elected mayor, which does not currently exist for the area of South Tyneside and would require a change in the governance structure of the Council from the current Leader and Cabinet model.

5.2 Chairing the Council Meeting

The Mayor (or in his/her absence, the Deputy Mayor) will be the person presiding over Council meetings. The Mayor will usually be elected by Full Council annually from among the Councillors and will receive regular briefings by the Chief Executive and Leader of the Council on current issues. The Mayor will not vote at Council meetings. If there are equal numbers of votes for and against, the Mayor will have a casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

The Mayor will have the following responsibilities:

a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, during Council meetings. In doing so the Mayor will take advice and consult as necessary from the Council's Director of Governance & Corporate Affairs (Monitoring Officer);

b) to preside over meetings of Full Council so that its business can be carried out efficiently and with due regard to the rights of Councillors, Officers and the interests of the community;

c) to ensure that the Council complies with its own principles of decision making. In doing so the Mayor will take advice as necessary from the Council's Director of Governance & Corporate Affairs (Monitoring Officer);

d) to ensure that, as far as possible, Full Council meetings are a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet or the Chairperson of a Committee are able to hold the Cabinet and Committee Chairpersons to account;

e) to promote the Council as a whole and promote public involvement in the Council's activities, acting as a focal point for the community of South Tyneside;

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

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

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 6 - THE LEADER OF THE COUNCIL

6.1 Election

The Leader of the Council will be elected at the Annual Meeting of the Borough Council in May 2021 and thereafter at the Annual Meeting immediately following the Leader's normal day of retirement as a Councillor. In the event of the Leader leaving office before his/her normal retirement date as a Councillor, a new Leader shall be elected by Full Council at an Ordinary Meeting, or at the Annual meeting if sooner.

6.2 Role of the Leader

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

a) Any function related to contaminated land;

b) The discharge of any function relating to the control of pollution or the management of air quality;

c) The service of an abatement notice in respect of a statutory nuisance;

d) The inspection of the authority's area to detect any statutory nuisance;

e) The investigation of any complaint as to the existence of a statutory nuisance;

f) The making of agreements for the execution of highway works;

g) The making of agreements with other authorities for the placing of staff at the disposal of those other authorities.

6.2.2 The Leader of the Council can exercise his/her functions himself/herself, or can delegate them to the Cabinet, to a Committee of the Cabinet, to individual Cabinet Members, or to an Officer.

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

6.2.4 The Leader is responsible for –

a) being the Council's principal public spokesperson;

b) giving overall political direction to the Council;

c) leading the Community Planning process. Community Planning aims to improve the connection between all the tiers of Government and wider society work through partnership working to jointly deliver better outcomes for everyone. Community planning identifies long-term priorities for improving the social, economic and environmental well-being of South Tyneside and the people who live there;

d) leading the drive for value for money, using public resources in a way that creates and maximises public value;

e) leading in the preparation of the Council's policies including the South Tyneside Strategy and Budget;

f) taking decisions on resources and priorities;

g) being the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs;

h) responding to any recommendations and reports from other Council Committees.

i) appointing the Cabinet and Deputy Leader;

j) deciding on the scheme of delegation for Cabinet functions;

k) representing the Council on such external executive bodies as Council decides;

l) chairing meetings of the Cabinet; and

m) in addition to (l) above chairing the following Committees:

- Common Land, Town and Village Greens Committee
- Constitution Committee
- General Purposes Committee
- Senior Officer Appointments Sub Committee
- Health and Wellbeing Board (subject to review in line with the development of the Wellbeing Board)

6.2.5 The Leader must appoint one of the Cabinet members as the Deputy Leader of the Council. The Leader may at any time dismiss the Deputy Leader or any Cabinet Member.

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

6.2.7 As referenced above in 6.2.4.(j), the Leader of the Council is responsible for maintaining those parts of the Scheme of Delegations in Part C of this Constitution setting out the responsibilities for the executive functions of the Council.

6.2.8 The Leader of the Council will be treated as a Councillor unless the law or context specifically requires otherwise. In particular, the Leader of the Council:

a) is subject to the same rules about qualification and disqualification as any other Councillor;

b) must follow the rules about disclosure of interests and comply with the Members' Code of Conduct as any other Councillor;

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

d) if a member of a political group, will be taken into account when calculating seat allocations on committees and sub-committees of which the Leader is a member, if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989;

e) is subject to the Members' Scheme of Allowances as approved and adopted by the Council as any other Councillor; and

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

6.3 Leader's Term of Office

6.3.1 The Leader will be a Councillor elected to the position of Leader by the Full Council at its Annual meeting in May 2021 (or such other time as provided for in this Constitution). The Leader will hold office until the day of the post-election Annual Meeting of the Council immediately following his/her normal day of retirement as a Councillor, or unless any of the following events arise before that date;

a) he/she resigns from the office or is no longer a councillor.

b) he/she is disqualified from being a Councillor; or

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

6.3.2 If any of the events described in 6.3.1 above arises, the Deputy Leader shall act in the Leader's place and automatically become Leader of the Council until

the appointment of a new Leader by Full Council at the next ordinary meeting of Council or the Annual meeting of Council, whichever is sooner.

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

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

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

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

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 7 - THE CABINET

7.1 Form and composition

7.1.1 The Cabinet must comprise the Leader of the Council and at least two (2), but not more than nine (9), other Elected Members of the Council. Therefore, membership shall be no more than ten (10) in total, including the Leader of the Council. Quorum is three (3). The Leader is solely responsible for deciding the number of members of the Cabinet within these parameters.

7.1.2 The Leader is also responsible for deciding and allocating the portfolios of responsibilities of Cabinet Members. These are set out in the Executive Procedure Rules (Part D Section 2). The Leader must appoint one of the Cabinet Members as the Deputy Leader.

7.1.3 Councillors appointed to serve on the Cabinet cannot be members of the Overview and Scrutiny Committee or any of its sub-committees or panels. The Leader of the Council may appoint any councillor from any political group to their Cabinet and the Cabinet need not reflect the political balance of the Council as a whole. The Leader of the Council will report their appointments to Full Council and the Chief Executive as and when they are made.

7.1.4 The Leader of the Council may invite others to attend meetings of Cabinet as observers.

7.1.5 The Cabinet carries out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

7.2 Deputy Leader and Cabinet Members – Term of Office

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

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

b) he/she resigns from office; or

c) he/she ceases to be a Councillor; or

d) he/she or disqualified from being a Councillor.

7.3 Proceedings of the Cabinet

The proceedings of the Cabinet will be conducted in accordance with the Executive Procedure Rules (Part D Section 2 of this Constitution).

7.4 Delegation of Functions

7.4.1 The Leader of the Council will make arrangements for a list to be maintained setting out whether responsibility for the exercise of particular Cabinet functions lies with the Cabinet itself or with individual members of the Cabinet, Officers of the Council or through joint arrangements.

7.4.2 The Scheme of Delegation of executive functions to any Committee of the Cabinet or to an Officer (including delegation of some functions to Officers to be exercised in consultation with the appropriate Cabinet Member) is set out in Part C of this Constitution.

7.4.3 The Leader or the Cabinet may appoint a Committee of the Cabinet or an Officer to carry out or to support the Cabinet in the carrying out of its functions.

7.4.4 Any decision of a Cabinet Committee is a decision of the Cabinet for the purpose of the 'call-in' procedure**.**

7.4.5 The Leader of the Council may amend the scheme of delegation of executive functions at any time by giving written notice of the change to the Chief Executive.

7.4.6 The Chief Executive will notify the individual or body affected by the change as soon as reasonably practicable on receipt of the notice of the change. The change in delegation will take effect on receipt of the notice by the Chief Executive. The Chief Executive will report the change to the next Ordinary Meeting of the Full Council and seek amendment to Part C of the Constitution accordingly.

7.5 Executive Arrangements

The following parts of the Constitution constitute the executive arrangements:

- Article 6 – The Leader of the Council
- Article 7 – The Cabinet
- Article 8 – Scrutiny of Decisions
- Article 14 – Joint Arrangements
- Article 16 – Decision Making
- Part C – Responsibility of Functions
- Part D – Rules of Procedure

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 8 - SCRUTINY OF DECISIONS

8.1 An effective Overview and Scrutiny function is an essential component of local democracy, enhancing accountability and transparency of decision making and enabling Councillors to represent the views of their constituents. Government guidance makes it clear that Overview and Scrutiny Committees should be powerful committees that can contribute to the development of the Council's policies and can also hold the Cabinet to account for its actions.

8.2 In order to promote a clear and consistent understanding of Overview and Scrutiny in South Tyneside, Overview and Scrutiny involves Councillors of all political parties, as leaders of their communities, examining the delivery of services and influencing decision makers to ensure that they meet the needs, and improve the lives, of people in South Tyneside.

8.3 It does this by:

a) reviewing and challenging the impact of decisions and actions taken by the Cabinet, Leader of the Council (where appropriate) and partner organisations;

b) carrying out investigations into services and policy areas of interest and concern to communities in South Tyneside;

c) involving communities in its work, where appropriate, reflecting their views and concerns; and

d) supporting and assisting the Cabinet, the Council Leadership and partner organisations in the formulation of their future plans, strategies and their decision making by making evidence-based recommendations to them on how services can be improved.

8.4 The Centre for Government and Public Scrutiny's four principles of good scrutiny are that good public scrutiny:

a) provides '*critical friend*' challenge to executive policy makers and decision makers;

b) enables and amplifies the voice and concerns of the public;

c) is carried out and led by independent minded people who lead, own and take responsibility for their scrutiny role; and

d) drives improvement in public services.

8.5 Section 21 of the Local Government Act 2000 requires the Council to appoint at least one Overview and Scrutiny Committee to undertake the overview and scrutiny function. Overview and Scrutiny Committees can –

a) review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions, excluding those decisions which are quasi-judicial in nature;

b) require the Leader of the Council, Cabinet Members and Council's Officers to attend any of its meetings and answer questions;

c) make reports or recommendations to the Full Council and/or the Executive in connection with the discharge of any functions;

d) consider any matter affecting South Tyneside or its residents;

e) consider any decision that has been 'called in';

f) publish reports or recommendations and require the Executive to consider and respond to these reports within a two-month period;

g) review or scrutinise progress in relation to the delivery of local performance targets, require information from relevant local partner authorities and make reports and/or recommendations to the Executive and partner organisations;

h) publish reports or recommendations and give notice in writing to relevant partner authorities to have regard to the report and recommendations;

i) consider any issues referred to the committee from ward councillors as 'Councillor Calls for Action'. The Councillor Call for Action (CCfA) is a mechanism whereby individual ward councillors can bring forward issues of local concern relating to 'a local government matter' for consideration by overview and scrutiny. CCfA's will only be considered if they satisfy the Councillor Call for Action checklist and procedure (See page 45 of this Constitution); and

j) review or scrutinise the Cabinet's initial and final proposals in respect of plans and strategies falling within the Budget and Policy Framework.

8.6 Terms of reference

The Council will appoint the following Committees to discharge its overview and scrutiny functions.

8.6.1 Overview and Scrutiny Co-ordinating and Call in Committee

The Overview and Scrutiny Co-ordinating and Call in Committee (sometimes referred to as simply Overview and Scrutiny Committee) will comprise 15 Members and will include the Chairs and Vice Chairs of the two Scrutiny Select

Committees (Place Select and People Select). Councillors appointed to serve on the Cabinet cannot be members of the Overview and Scrutiny Co-ordinating and Call in Committee. Quorum will be 4 Members. This Committee will have a separate Chair and Vice Chair. Overview and Scrutiny Co-ordinating and Call in Committee may require or invite the Leader of the Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

The role of Overview and Scrutiny Co-ordinating and Call in Committee will be to:

a) approve an annual overview and scrutiny programme and to review that programme regularly;

b) determine which Scrutiny Select Committee and Panel should consider an issue where there is overlap;

c) scrutinise cross-cutting issues where this is appropriate;

d) resolve any disputes between Scrutiny Select Committees and Panels;

e) manage the overview and scrutiny process and ensure its efficient operation;

f) decide priorities within the overview and scrutiny system;

g) operate as the Call-In Committee for all called in decisions in accordance with the Scrutiny Procedure Rules in Part D Section 3 of this Constitution;

h) operate as the Crime and Disorder Committee to deal with referrals of that nature, working with the Select Committee where appropriate and coordinating responses;

i) act as the referral point for the Local Health Watch in respect of Health matters, allocating referrals to the relevant Select Committee where appropriate and coordinating responses;

j) act as the referral point for CCfA, ensuring that, where appropriate, referrals are dealt with at the next available Committee meeting, allocating referrals to the relevant Select Committee where appropriate and coordinating responses;

k) act as the responsible body for ensuring that the Council's statutory health functions are undertaken, including the power to scrutinise the planning, provision and operation of health services within the Borough. This work may be undertaken in conjunction with Select Committees where appropriate;

l) undertake scrutiny of partners as described in the Local Government and Public Involvement in Health Act 2007 and in relation to the Police and Justice Act 2006;

m) scrutinise the Council's implementation of its public health responsibilities;

n) consider quarterly performance reports;

o) review value for money and service improvement programmes;

p) meet 4-weekly in accordance with the Council diary but may hold special meetings if the Chair considers it necessary or appropriate.

In addition, this committee will be responsible for scrutinising corporate issues, including but not limited to:

- Policy and Performance Management
- Equality and Diversity
- Finance
- HR
- Digital and ICT

8.6.2 Place Select Committee

Place Select Committee will have 15 non-executive members (non-Cabinet Members) plus one representative from the South Tyneside community, preferably from the Voluntary Sector. Quorum will be 4 Members. The Voluntary Sector representative will be appointed by Full Council on the recommendation of Constitution Committee for a term of 12 months. The Voluntary Sector representative may not vote at meetings of Place Select Committee.

Any vacancy in the appointment or non-attendance of a Voluntary Sector representative shall not invalidate the proceedings of the Place Select Committee.

This committee must be politically balanced and will have its own separate Chair and Vice Chair. Councillors appointed to serve on the Cabinet cannot be members of Place Select Committee. Place Select Committee may require or invite the Leader of the Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

This committee will deal with matters relating to:

a) Asset Management
b) Cultural Services
c) Regeneration (including Economic Growth and Marketing)
d) Housing Policy
e) Planning, Built Environment, Development & Control
f) Regulatory Services (including Trading Standards)
g) Transport Policy
h) Environment and Climate Change Policy

Where relevant and appropriate Place Select Committee may have their work supported by the Housing Performance Panel and by the Education and Skills Performance Panel.

8.6.3 People Select Committee

People Select Committee will have 15 non-executive members (non-Cabinet Members) plus one representative from the South Tyneside community, preferably either a Parent Governor or a Faith representative. Quorum will be 4 Members. This representative will be appointed by Full Council on the recommendation of Constitution Committee for a term of 12 months. The representative may not vote at meetings of People Select Committee.

Any vacancy in the appointment or none-attendance of a Parent Governor or Faith representative shall not invalidate the proceedings of the People Select Committee.

People Select Committee must be politically balanced and will have its own separate Chair and Vice Chair. Councillors appointed to serve on the Cabinet cannot be members of People Select Committee. People Select Committee may require or invite the Leader of the Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

People Select Committee will deal with matters relating to:

a) Adult and Community Learning
b) Adult Care Services
c) Children's Safeguarding and Social Care
d) Education
e) Family Support
f) Fostering and Adoption
g) Public Health and Wellbeing
h) Services for Young People

Where relevant and appropriate People Select Committee may have their work supported by Education and Skills Performance Panel and Children and Adults Safeguarding Panel.

8.7 General role of Scrutiny Committees (including Select Committees and Scrutiny Performance Panels)

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

a) review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's executive functions;

b) make reports and/or recommendations to Full Council, the Cabinet or any Joint Committee, in connection with the discharge of any executive functions;

c) consider any matter affecting the area or its inhabitants;

d) exercise the right to call-in, for reconsideration of decisions made but not yet implemented by the Cabinet and key decisions made but not yet implemented by Officers under delegated powers;

e) consider value for money, service improvement and performance management in undertaking scrutiny reviews;

f) Select Committees will meet 4-weekly, in accordance with the Council diary, but may hold special meetings if the Chairperson considers it necessary;

g) Select Committees may hold joint meetings with other Select Committees or Performance Panels if the relevant Chairpersons consider it appropriate; and

h) Select Committees will undertake scrutiny of partners as described in the Local Government and Public Involvement in Health Act 2007 and in relation to the Police and Justice Act 2006.

8.8 Specific functions of Scrutiny Committees

<u>Policy development and review</u>

Scrutiny Committees and Panels may:

a) assist and advise the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;

b) conduct research, undertake residents and other consultation in the analysis of policy issues and possible options including the setting up of Scrutiny Commissions and the agreement of their terms of reference;

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

d) question Members of the Cabinet and/or Committees and Chief Executive, Directors and Senior Officers about their views on issues and proposals affecting the Council's area;

e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and

f) initiate investigations or inquiries into matters of local concern.

8.9 Performance and Service Improvement

Scrutiny and Select Committees and Panels may:

a) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;

b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas including budgets;

c) question members of the Cabinet and/or Committees, Chief Executive, Directors and Senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

e) review and scrutinise the performance of other public bodies in the area or Joint Committees on which the Council is represented and invite reports from them by requesting them to address the relevant Committee and local people about their activities and performance; and

f) question and gather evidence from any person (with their consent).

8.10 Finance

Scrutiny Committees and Panels will exercise overall responsibility for any finances made available to them.

8.11 Proceedings of Scrutiny Committees

Scrutiny Committees and Panels will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part D Section 3 of this Constitution including, where necessary, consulting other Committees, stakeholders,

residents or community groups and forming commissions and task groups as appropriate.

8.12 Officers

The Council has a designated Scrutiny Officer who is responsible for promoting the role of the Council's Overview and Scrutiny arrangements; providing support to the Council's Overview and Scrutiny Committee and sub-committees including Place Select Committee and People Select Committee and their members and to provide support and guidance to:

a) Members of the Council;

b) Members of the executive (Cabinet); and

c) Officers of the Council in relation to the functions of the Council's Overview and Scrutiny arrangements. The Council will also ensure that appropriate officer support is provided to enable the Overview and Scrutiny Committee and sub-committees to deliver their agreed work programmes and responsibilities.

8.13 The Council's scrutiny functions are dispensed by both the Overview and Scrutiny Co-ordinating and Call in Committee, the two Scrutiny Select Committees and the four Scrutiny Performance Panels. All the Scrutiny Committees and Panels are held in public. The Performance Panels included in Article 9 are Scrutiny Panels that may oversee discrete policy areas and are responsible for examining and analysing specific services or issues that fall within their specific portfolios as part of the Council's overall scrutiny function.

COUNCILLOR CALL FOR ACTION (CCfA)

Guidance for Elected Members

Councils must make arrangements for the CCfA in order to comply with the requirements of the Local government and Public Involvement in Health Act 2007, and the Police and Justice Act 2006.

The Councillor Call for Action (CCfA) is a mechanism whereby individual ward councillors can bring forward issues of local concern relating to 'a local government matter' for consideration by overview and scrutiny.

Section 21(10)b of the Act says that a local government matter is a matter which *'affects all or part of the electoral area for which the member is elected or any person who lives or works in that area'*.

Under the Representation of the People Act an "electoral area" is, in this context at least, a ward. So, it does actually need to be the Councillor's own ward.

However, the Councillor Call for Action is seen as a last resort, and the councillor bringing forward the action should have exhausted all other possibilities to resolve the issue, prior to bringing it to scrutiny.

At South Tyneside Council the Committee considering CCfA's will be the Overview and Scrutiny Co-ordinating and Call in Committee. Any South Tyneside Elected Member can bring a CCfA but must first complete a checklist to be submitted to the Monitoring Officer who will consider the checklist and submit it to the Scrutiny Officer, if appropriate. The Monitoring Officer and Scrutiny Officer in consultation with the Chair of Overview and Scrutiny Committee will discuss whether or not any CCfA meets the criteria.

A copy of the checklist is attached at Appendix 1 (See Page 47).

When completing the checklist Members should take into account the following points:

1. Excluded matters:

    a. Planning appeals, licensing appeals and all other areas where a person has an alternative avenue to resolve an issue, through the Council's complaints process.

    b. Any matter that is vexatious, that is likely to cause distress, disruption or irritation, without any proper or justified cause. If a CCfA is considered vexatious clear reasons as to why this is the case will be provided to the ward councillor.

c. Matters that are discriminatory, that is something that specifically excluded a particular sector the community on the grounds of age, race, gender, sexual orientation, disability, religion or belief.

d. Any matter which it is not reasonable for discussion at a scrutiny committee. This is likely to also be vexatious.

2. No CCfA's will be considered during an election period, including the pre-election period.

3. A CCfA will not be accepted if it is already on the work programme for another scrutiny committee.

4. A Ward Member will need to provide full details of what they have done already to try to resolve the issue, to demonstrate that they have exhausted all other avenues. Examples of this might be that they have engaged in discussions in the community or at their CAF, contacted other agencies, and discussed the matter with officers.

5. A Ward Member will need to suggest how they would anticipate the matter reaches resolution. For example, it may be that resolution is seen as the scrutiny committee referring the matter to Executive for consideration, holding the portfolio holder to account, or requesting an officer report.

6. The matter must be of genuine local concern within the Member's Ward and regard will be made to the resource implications of what is proposed on a case-by-case basis.

Appendix 1

CHECKLIST

This form is to be completed by all councillors bringing forward a Councillor Call for Action (CCfA)

ISSUE (Subject of Call for Action)	Yes/No
PART 1: Is the issue eligible as a CCfA?	
Does the matter refer to an individual?	
Is it a quasi-judicial matter (e.g., planning or licencing?)	
Is the issue of genuine local concern (please provide full details)?	
Does it refer to a matter within your electoral area?	
Is the matter vexatious or discriminatory (i.e., is it likely to cause distress, disruption or irritation without proper or justified cause?)	
Additional information in support of answers:	
PART 2: What have you/others already done to resolve the issue?	
Has the issue been discussed at ward level or at the relevant CAF with all ward councillors?	
Has the ward councillor discussed the issue with the relevant Lead Member, Officers or relevant partners?	
Has the matter previously been discussed at another meeting of council members?	
Is the matter already on a scrutiny committee work programme or Full Council agenda for debate?	
Has the matter already been the subject of recent debate (within the last six months) at a scrutiny committee or Full Council?	

Has significant new evidence or concerns been identified since the last debate if within the last six months?	
Additional information in support of answers:	
PART 3: What do you want to get out of the CCfA / what would you consider as a resolution to the issue?	
Profile raised through debate at scrutiny following evidence from officers or Lead Member	
Scrutiny debate involving external stakeholders	
Recommendations made to the Cabinet	
Other (please give details)	

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 9 - REGULATORY AND OTHER COMMITTEES

9.1 The Council can appoint committees to carry out the functions listed in Part C Responsibility for Council Functions. These are referred to as the regulatory and other committees and can include in their membership Members of the Cabinet (unless where stated otherwise).

9.2 All regulatory and other Committees covered by this section will normally be appointed at the Annual Meeting of the Council. The number of Elected Members to be appointed to all such Committees will be determined at the Annual Meeting in accordance with the provisions of the Local Government and Housing Act 1989 and any subsequent regulations. These provisions relate to the political balance on committees.

9.3 Training

Initial and refresher training for Members serving on the regulatory and other committees of the Council is important in ensuring the probity and credibility of the Council's decision-making processes. Elected Members may be required to complete specific training if appointed to these committees/panels.

9.4 Proceedings and Procedures

Details of what committees have been appointed and details of their responsibilities are provided below. Decisions of regulatory committees will not be available for 'call in' as further rights of appeal or legal remedies are available to anyone aggrieved by such decisions. Decisions of committees that are not regulatory committees and do not have further rights of appeal or specific legal remedies will be subject to call in but only in respect of alleged breaches of the principles of decision making set out in Article 16.

9.5 GENERAL PURPOSES COMMITTEE

The General Purposes Committee will comprise 16 Elected Members and will be chaired by the Leader of the Council. Quorum will be four (4) Members and the General Purposes Committee will meet at least once annually to approve the Council's annual audited Statement of Accounts. The General Purposes Committee will have the following functions:

a) to exercise all non-executive functions which have not been delegated to another Committee and which by law are not required to be exercised by Full Council; and

b) to approve the Council's audited Statement of Accounts.

9.6 THE LICENSING AND REGULATORY COMMITTEE

The Licensing Committee will comprise 15 Members. Quorum will be four (4) Members and the Licensing Committee will usually meet every six weeks but can meet more or less frequently and can also convert usual meetings for training purposes with the permission of the Chair.

Licensing Committee will have the following functions:

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

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

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

iii. Applications for premises licences/club premises certificates (if representation(s) made).

iv. Applications for provisional Statements (if representation(s) made).

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

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

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

viii. Applications for Interim Authorities (if police representation).

ix. Applications to review premises licence/club premises certificate; and

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

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

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

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

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

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

v. Applications to review premises licences.

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

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

viii. Cancellation of Club Gaming Permits or Club Machine Permits.

c) The Licensing and Regulatory Committee may appoint a Sub-Committee and/or a Panel comprising a number of its Members to exercise any of its functions within the above terms of reference.

d) The functions delegated to the sub-committee and to Officers are as follows:

Under the Licensing Act 2003

Matters to be dealt with	Full Committee	Sub-committee	Officers
Licensing Act Policy	Full Council - at least once every 5 years		
Application for personal license		If a police objection	If no objection
Application for personal license with unspent convictions		All cases	
Application for premises club/club premises certificate		If a relevant representation	If no relevant representation
Application for provisional statement		If a relevant representation	If no relevant representation
Application to vary premises club/club premises certificate		If a relevant representation	If no relevant representation
Application to vary designated		If a police objection	All other cases

premises supervisor			
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises license		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises club/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc		If officers take the view the representation may be irrelevant, frivolous or vexatious	In all other cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

Under the Gambling Act 2005

Matter to be Dealt With	Full Council	Full Committee	Sub-Committee of Licensing Committee	Officers
Three Year Licensing Policy	X			
Policy not to Permit Casinos	X			

Fee setting (when appropriate)				X
Application for Premises Licenses			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a Variation to a License			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a Transfer of a License			Where representations have been received from the Commission	Where no representations received from the Commission

Application for a Provisional Statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a Premises License			X	
Application for Club Gaming/ Club Machine Permits			Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of Club Gaming/ Club Machine Permits			X	
Applications for Other Permits				X
Cancellation of Licensed Premises Gaming				X

Machine Permits				
Consideration of Temporary Use Notice				X
Decision to give a Counter Notice to a Temporary Use Notice			X	
Decision to remove Automatic Gaming Exemptions				X
Exclusion of a Default Condition and Attachment of Other Conditions as appropriate				X
Determination of Representations under S162 (3)				X

e) The Licensing Committee may consider any application referred to it by the Head of Environment.

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

- Head of Environment
- Service Lead Community Protection
- Operations Manager - Licensing
- Licencing Officers

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

i. to determine applications for the granting or renewal of licences, permits and other matters referred to it and not otherwise dealt with by the Licensing and Regulatory Committee or the relevant Director.

ii. to hear and determine appeals against refusal by the relevant Director of applications under the Marriage Act 1994.

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

iv. to determine Hackney Carriage Fares; and

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

vi. to act as the membership pool for the Council's Appeals Panel and deal with appeals by individuals against housing allocation decisions and employee related appeals and to hear appeals in relation to certain other Council services, as and when required.

9.7 THE PLANNING COMMITTEE

The Planning Committee will comprise 16 Members. Quorum will be four (4) Members. The Planning Committee will usually meet every six weeks but can meet more or less frequently with the agreement of the Chair. The Planning Committee functions will involve the determination of the following matters:

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

9.7.1.1 Residential development of 10 or more dwellings or, where numbers are not specified, the site area is more than 0.5 hectare

9.7.1.2 Other development where the floorspace to be created is 1000 sq. metres
or more or the site area is 1 hectare or more,

9.7.1.3 and for the purposes of this Article 9.7.1 an application for major development includes:

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

b) any application made under section 73 (determination of applications to develop land without compliance with conditions previously attached), or under section 73A (planning permission for development already carried out) of the Town and Country Planning Act 1990, for permission to carry out development without complying with a condition to which permission

was granted, in respect of major development where, in the opinion of the Operations Manager - Development Management, the application raises such issues that it is considered that the application should be determined by Planning Committee; and

c) any application for approval of a reserved matter in respect of an outline planning permission for major development; and

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

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

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

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

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

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

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

9.7.1.10 applications where any Councillor or MP has put forward an objection in writing or asked in writing with reasons that an application be determined by Committee.

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

9.7.1.12 applications which the Operations Manager - Development Management considers should be determined by the Planning Committee having regard to guidance approved by the Planning Committee on this matter.

9.7.1.13 enforcement issues relating to the exercise of the Council's functions under Part VII of the Town and Country Planning Act 1990 which the Operations Manager - Development Management considers should be determined by the Planning Committee having regard to guidance approved by the Planning Committee on this matter.

9.7.1.14 Building Control performance matters (save for Building Control warrants).

9.7.2 The Planning Committee will operate in accordance with a specific Code of Conduct and Protocol included in this Constitution at Part E Section 10.

9.8 HUMAN RESOURCES COMMITTEE

The Human Resources Committee will have 11 members, at least one of whom will be a Cabinet Member. Quorum will be three (3) Members. Human Resources Committee will usually meet every six weeks but can meet more or less frequently with the agreement of the Chair. Human Resources Committee will have the following functions:

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

9.8.2 to determine the numbers and grades of employees of the Council where the Council for posts graded Band 8 and above (or equivalent salary).

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

9.8.4 except for those applications in redundancy situations and where there are no costs attached in relation to the application, which are delegated to the relevant Director, to determine applications for early or flexible retirement from employees of the Council.

9.8.5 to determine applications for early release of pension benefits from former employees of the Council, and former employees of employing bodies which have ceased to exist but for which the Tyne and Wear Pension Fund still has a continuing liability only where there is a cost to do so.

9.8.6 to approve any Voluntary Retirement Scheme for Teachers.

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

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

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

9.9 SENIOR OFFICER APPOINTMENT SUB COMMITTEE

The Senior Officer Appointment Sub Committee will have 5 Members, or whatever number is required for this to be politically balanced, including specifically the Leader of the Council, Deputy Leader of the Council, the Chair and Vice Chair of the Human Resources Committee and a Member(s) of the Opposition appointed to the Human Resources Committee. All members of Senior Officer Appointment Sub Committee, in addition to Leader of the Council and Deputy Leader of the Council, will be taken from the membership of Human Resources Committee. The Senior Officer Appointment Sub Committee will be chaired by the Leader of the Council, who may at their discretion appoint an alternative Chair on a meeting-by-meeting basis. The appropriate Lead Member may also attend the Senior Officer Appointment Sub Committee dealing with an appointment relevant to their portfolio, in order to share views and observations with the Sub Committee. If attending the Lead Member will not be considered a member of the Senior Officer Appointment Sub Committee and will have no voting rights. The Committee will have the following functions:

9.9.1 to discharge the functions relating to the appointment of employees referred to in Employment Procedure Rules in Part D Section 7 of this Constitution in accordance with Rule 4 of those Rules subject to rules 9.9.2 and 9.9.3 below.

9.9.2 in relation to the appointment of the Head of Paid Service, to select a short list of candidates, to interview candidates and make a recommendation for the appointment to Full Council.

9.9.3 in relation to appointments to Director, Statutory Chief Officer (except for the Head of Paid Service) and Head of Service Posts to select a short list of candidates, interview candidates and make the appointment (subject to notification of Cabinet Members of the proposed appointment and any legislative requirements for the consent of external bodies).

9.10 APPEALS PANEL

9.10.1 An Appeals Panel, whose membership will be taken largely from the membership of the Licencing and Regulatory Committee) will deal mainly with appeals by individuals against housing allocation decisions and employee related appeals, but it may also be used to hear appeals in relation to certain other Council services.

9.10.2 Appeals will normally be heard by a committee of three (3) Members, to include Lead Member for Resources and Innovation and the remaining members of the Panel to be chosen from membership of the Licencing and Regulatory Committee. Where circumstances, or the law, requires, larger Panels may hear appeals. The committee for each appeal will be chaired by the Lead Member for Resources and Innovation and will consist of either the Chair or Vice Chair of the Licencing and Regulatory Committee and at least one other Member of the Licencing and Regulatory Committee chosen by the Corporate Lead, legal and Governance.

9.10.3 If neither the Lead Member for Resources and Innovation, the Chair nor the Vice Chair of the Licencing and Regulatory Committee are able to sit on a particular Panel, the Corporate Lead, Legal and Governance shall choose alternative Members from the Licencing and Regulatory Committee, in consultation with the Leader of the Council, where appropriate. Any Members of the Licencing and Regulatory Committee who are also members of the Human Resources Committee may not sit on an Appeals Panel dealing with an employment related appeal. Any Members of the Licencing and Regulatory Committee also appointed to South Tyneside Homes Board may not sit on an Appeals Panel dealing with a housing allocation related appeal.

9.10.4 The Appeals Panel will: -

a) hear and adjudicate upon all appeals by employees of the Council with the exception of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer against a decision of either an Officer of the Council or a Committee of the Council to dismiss an employee from the Council's employment or in the case of Article 9.8.7 above, against a decision of the Human Resources Committee to take disciplinary action (other than dismissal) in respect of a Chief Officer (or Deputy).

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

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

d) hear employee grievance appeals.

e) hear and adjudicate on any appeals by Teachers where the Council is the relevant Body against the decision of the relevant Director on annual salary reviews.

f) determine appeals by applicants for housing against the relevant decisions of South Tyneside Homes in accordance with prevailing legislation and the Council's policy.

g) determine appeals against exclusions from the housing register.

h) determine appeals against decisions of the relevant Director under the terms of the concessionary travel scheme.

i) consider the recommendations of a Review Panel set up under the representation.

j) procedures for children and adults where its recommendations are not intended to be followed.

k) determine appeals against the refusal of the relevant Director to grant a Disabled Person's Parking Permit.

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

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

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

o) to consider appeals on any other social services matters which the relevant Director may refer to the Committee for a decision.

p) to consider appeals on any other housing matters which South Tyneside Homes may refer to the Committee for a decision.

q) review decisions taken by the relevant Director regarding access to, or rectification or erasure of social services personal information.

r) review decisions taken by South Tyneside Homes regarding access to, or rectification or erasure of housing related personal information.

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

t) consider any other matter referred to the Committee by a Director.

9.10.5 As the appeals are always of a confidential nature all Appeals Panels will be held in private.

9.11 THE AUDIT COMMITTEE

9.11.1 There will be an Audit Committee comprising 5 Elected Members and 2 external Co-opted Members. Two (2) Substitute Members (one to substitute for the majority group and one to substitute for the minority group) will also be appointed in accordance with Rule 20 of the Council Procedure Rules. Audit Committee will meet at least 4 times a year. The quorum is three (3) Members entitled to attend. The Audit Committee is formally an advisory committee of the Council. The Chair of Audit Committee will be free of executive and scrutiny functions whilst other Members will be sufficiently independent of the other key committees of the Council as per CIPFA Guidance, so that there is nothing to deter Audit Committee from being able to challenge or hold to account the executive on governance, risk and control matters.

9.11.2 The purpose of the Audit Committee is to provide independent assurance to the Council on the following responsibilities:

- the effectiveness of governance, risk management arrangements and the associated control enviroment;
- the effectiveness of the Council‘s financial and non - financial performance to assess the extent to which it exposes the Council to risk and weakens the control environment;
- to independently scrutinise, and to oversee the Council‘s financial reporting process.

9.11.3 In carrying out these roles the Audit Committee will provide recommendations to the Council on how to improve governance arrangements, the risk management framework, the control environment and the financial reporting procedures.

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

9.11.5 The Audit Committee will:

a. Consider the effectiveness of the Council’s governance and risk management arrangements, control environment and associated anti-fraud and corruption arrangements.

b. Review and approve the Internal Audit Strategy, Internal Audit Charter, 3-Year Strategic Internal Audit Plan and Annual Internal Audit Plan.

c. Review and monitor Internal Audit performance, receive updates on the outcomes of Internal Audit activity and updates on progress made by service areas to implement recommendations made in audit reports.

d. Where appropriate, suggest the Internal Audit undertakes reviews into specific areas of concern. The Assurance and Risk Manager will then determine whether such work should be undertaken by Internal Audit, having regard to the nature, materiality and gravity of the matter referred, and the corresponding impact on delivery of the audit plan.

e. Consider the Internal Audit Annual report and Opinion of the Assurance and Risk Manager on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.

f. Receive and consider updates in respect of the Council's risk management arrangements including the Risk Management Framework and Strategic Risk Register. Where appropriate, Audit committee will make recommendations to the Council with on proposed improvements to these arrangements.

g. Receive Audit Planning reports for the Council and Tyne and Wear Pension Fund and consider the scope and depth of external audit work to ensure it gives value for money.

h. Review the accounting policies used to compile the Authority's Financial Statements (Statement of Accounts).

i. Review the Annual Governance Statement, prepared as part of the financial statements, and consider whether this has been prepared in accordance with proper practices in relation to internal control, reflects the risk environment and includes relevant improvement actions. Following that consideration, the Audit Committee will approve the Annual Governance Statement.

j. Review and consider the Council's Financial Statements for the Council and Tyne and Wear Pension Fund, external auditor's opinion and reports on these Financial Statements. Following that consideration, the Audit Committee will recommend the Financial Statements be approved by the General Purposes Committee.

k. Monitor management action in response to any issues raised in relation to the Financial Statements or internal controls by external audit.

l. Receive regular finance reports on the Council's budget position.

m. Review and approve Counter Fraud Strategy, including Fraud Response Plan and Sanctions Policy and provide feedback on

proposed updates to whistleblowing policies prior to approval by Full Council.

n. Undertake a periodic self-assessment of its effectiveness and develop a training plan to address any perceived gaps in skills, experience and competencies.

o. Receive reports and seek assurance that action is being taken to address issues identified governance, risk management or control issued identified in inspections.

p. Review the relationships between internal and external auditors, inspection agencies and other relevant bodies.

q. Actively promote the value of the audit process.

r. The Audit Committee will ensure it is aware of the work undertaken by other committees, so it can take account of any significant internal control issues arising from this work.

s. The Audit Committee will review the accounting policies used to compile the Authority's Statement of Accounts and will review key information relating to the Authority's Statement of Accounts. The Audit Committee will review the external auditor's opinion and reports on the statement of accounts and monitor management action in response to any issues raised in relation to the accounts by external audit.

t. The Audit Committee will ensure it is aware of the work undertaken by other committees, so it can take account of any significant internal control issues arising from this work.

u. Review the Council's financial Statements, external auditor's opinions and reports to members prior to the financial statements being approval by General Purposes Committee. Receive reports on action taken to address any issues identified; and

v. Receive regular finance reports on the Council's budget position.

9.11.6 The Chair of the Audit Committee will submit an Annual Report of the Committee's work to Full Council. The Audit Committee may submit a special report to Full Council on significant matters that affect the Council as a whole at any time.

9.11.7 All Audit Committee members will act in the interests of the Council and not on behalf of any political party, constituency, ward or interest group.

9.11.8 The Audit Committee is a key component of the Council's corporate governance arrangements and is an important source of assurance about the organisation's arrangements for managing risk, maintaining an effective control environment and reporting on financial and other performance.

9.11.9 The two co-opted members of the Audit Committee will serve a term of office of two years with the option to extend for a further two years. The appointment of co-opted members is a matter reserved to Full Council, on the recommendation of the Constitution Committee and the Section 151 Officer. The term of office for any appointed co-opted member can only be extended with the express approval of the Full Council, on the recommendation of the Chief Executive and Section 151 Officer.

9.11.10 Co-opted members appointed by the Full Council can attend and speak at meetings of Audit Committee to which they are appointed but cannot vote. Where the committee is operating as an advisory committee under the Local Government Act 1972, making recommendations rather than policy, then all members of the committee should be able to vote on that recommendation. If the council delegates decisions to the committee, e.g., the adoption of the financial statements, then the independent member will not be able to vote on those matters for a decision. The minutes of the meeting will make clear in what capacity the committee is voting.

Internal Audit Terms of Reference

Public Sector Internal Audit Standards (PSIAS) require a formal Internal Audit Charter is developed, which effectively acts as the terms of reference for Internal Audit. The Charter:

- Establishes the purpose, authority and responsibility of internal audit activity which is consistent with the Mission of Internal Audit and mandatory elements of the International Professional Practices Framework (the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the Standards and the Definition of Internal Auditing).
- Establishes the internal audit activity's position within the organisation.
- Authorises access to records personnel and physical properties relevant to the performance engagements.
- Defines the scope of internal audit activities

The Audit Charter complies fully with the Council's Constitution, and the provisions on Internal Audit contained therein.

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

The Internal Audit Charter, incorporating the Terms of Reference, reflects the need to have a strong, independent and respected Internal Audit service. It also makes clear what is required of both Internal Audit and management to ensure successful delivery of internal audit activities. It is, therefore, important that the Charter is communicated across the whole Council and its partners, in order to achieve a common

understanding of the role of Internal Audit. To this end the Internal Audit Charter will be published on the Council's intranet site.

Purpose

Internal Audit is an independent appraisal function, which contributes towards the Council's overall governance framework, and established for the following purposes:

- To provide an effective Internal Audit service which conforms with legislation and PSIAS.
- To provide an independent, objective assurance and consulting activity designed to add value and improve the organisation's operations including contributing advice at an early stage in the implementation of any developments / amendments to processes.
- To help the organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Responsibilities of Management

Senior Management, with support of management (heads of service or above), are responsible for:

- Establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements which include addressing the risk of fraud and corruption.
- Managing the risk of fraud and corruption and ensuring appropriate action is taken where this is suspected or detected, including reporting any suspected fraud, corruption or irregularity to Internal Audit as soon as it is suspected.

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

Responsibilities of Internal Audit

Internal Audit's primary responsibility is to provide an effective Internal Audit Service which complies with professional standards, i.e., Public Sector Internal Audit Standards (PSIAS).

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

Independence

Internal Audit must have, and maintain, the ability to make unbiased judgements and decisions based on audit activities and facts and be free from any internal or external interference or obstruction, i.e., must be seen to be, independent and objective. To ensure this, Internal Audit will operate within a framework which allows:

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

Every effort will be made to preserve independence and objectivity by ensuring that, wherever possible, Internal Audit staff does not undertake any executive or non-audit duties. However, should officers undertake non-audit work the Assurance and Risk Manager will formally consider any threats to independence and objectivity prior to approving these duties

The Internal Audit Charter gives adequate scope, authority and objectivity, to assure independence.

Status of Internal Audit

The Director of Business and Resources is designated by the Council under section 151 of the Local Government Act 1972 as the officer responsible for making proper arrangements for the administration of the Council's financial affairs. CIPFA have defined proper administration in that it should include 'compliance with the statutory requirements for accounting and internal audit'.

The Accounts and Audit Regulations (England) 2015, require that the Council "must undertake an adequate and effective internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control'. Internal Audit reports to, and is operationally accountable to, the Director of Business and Resources but report functionally to the Audit Committee.

Authority of Internal Audit

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

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

- directly access the Chief Executive and the Audit Committee and / or appropriate committees.

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

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

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

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

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

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

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

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

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

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

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

Scope of Internal Audit Work

The work of Internal Audit embraces the whole internal control system of the Council, comprising governance, risk management and internal control. This also extends to organisations to whom the Council has given grants, organisations with whom the Council contracts and partner organisations in any scheme for which the Council has responsibility as lead or accountable body.

Internal Audit's remit includes:

- Identifying, evaluating and managing risks impacting upon achievement of the vision, priorities and objectives.
- assessing the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e., rules established by either the management of the Council or externally.
- assessing the completeness, reliability and integrity of information, both financial and operational.
- assessing the extent to which the Council's assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud, corruption, waste, extravagance, abuse, ineffective management and poor value for money; and
- assessing the economy, efficiency and effectiveness with which resources are deployed.

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

The Counter Fraud Strategy, including Fraud Response Plan, requires that Internal Audit is informed in the event of actual or suspected fraudulent activity, financial irregularity or corruption. Internal Audit will co-ordinate the investigation of any allegations in accordance with the Counter Fraud Strategy and Fraud Response Plan, including liaison with the Police.

Internal Audit is also called upon to perform certain non-audit or 'consultancy' duties, for example preparation of the Counter Fraud Strategy. Such work is clearly identified within internal audit plans.

Planning and Reporting

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

Internal Audit must be independent in its planning and operation. In producing internal audit plans, the Assurance Risk Manager will have an unrestricted range of coverage of the Council's operations. The Assurance and Risk Manager will have the freedom to determine the priorities of Internal Audit based upon their assessment of risks and consultation around plans.

The resourcing of Internal Audit will be kept under regular review and the adequacy of resources are considered annually when preparing internal audit plans. As a minimum, resourcing will ensure that Internal Audit is able to comply with the Public Sector Internal Audit Standards.

Internal Audit operate in accordance with the planned work programme, set out in the 3-year Strategic Audit Plan, including the Annual Internal Audit Plan, subject to any special or ad-hoc work requested during the period. The outcomes of Internal Audit work are reported to the relevant Director and service management along with findings and recommendations on action to be taken. In addition, Internal Audit reports to the Director of Business and Resources and Audit Committee summarising work undertaken and progress against the annual and strategic internal audit plans.

Where appropriate, Internal Audit may also consider it necessary to impart findings to other officers, such as the Section 151 Officer, Monitoring Officer or Chief Executive. Accordingly, the Assurance Risk Manager will have direct access to, and freedom to report to, all senior management and elected members, including those charged with governance.

Management is expected to implement all accepted audit recommendations within an agreed timescale. Audit recommendations will be followed up to assess the extent to which management have implemented these. Summary information will be reported to the Audit Committee on a periodic basis, including details or recommendations not implemented by management by the agreed date.

On an annual basis the Assurance and Risk Manager is required to consider the results of Internal Audit work performed during the year and to prepare an annual audit report and opinion on the overall adequacy and effectiveness of the organisation's framework of governance, risk management control. This will be presented to, and considered by, the Council's Audit Committee as part of their consideration of the effectiveness of the Council's control environment.

Relationship with External Audit

Internal Audit will co-ordinate its work with the Council's External Auditor for the benefit of the Council, to minimise any duplication of work and to inform their planning for the audit of the financial statements.

9.12 THE COMMON LAND AND TOWN AND VILLAGE GREENS COMMITTEE

9.12.1 The Common Land and Town and Village Greens Committee will have 13 Members and will be chaired by the Leader of the Council. Quorum will be four (4) Members.

9.12.2 It will consider such applications for the registration of areas of land as common land or as a town or village green which the Corporate Lead, Legal and Governance refers to the Committee.

9.12.3 The Common Land and Town and Village Greens Committee has been set up specifically to deal with any applications received for registration of areas of land as common land, town or village green and will meet only when required.

9.13 CONTRACTS PERFORMANCE PANEL

9.13.1 The Contracts Performance Panel will have 10 Members and must be politically balanced. Councillors appointed to serve on the Cabinet cannot be members of the Contracts Performance Panel. Quorum will be three (3) Members. The Contracts Performance Panel is a Scrutiny Performance Panel supporting the scrutiny function of the Council by overseeing discrete policy areas and is responsible for examining and analysing specific contract performance and related issues. No Member representative on North East Purchasing Organisation (NEPO) shall be a Member of the Contracts Performance Panel.

9.13.2 The Panel will receive regular performance reports and service reviews, to consider the effectiveness of the services commissioned by the Council, with a focus on customer satisfaction and value for money. The Panel will have the following functions:

a. To provide Members with the opportunity to represent the views of the communities they serve and review the performance of a range of organisations which provide services to the Council.
b. To agree a work-plan at the start of the year to review a range of larger contracts (with potential for more focused sub-groups).
c. To comment on service specifications to ensure that they are focusing on the outcomes that matter most to South Tyneside residents.
d. Through regular performance reports and service reviews, to comment on the effectiveness of commissioned services, with a particular focus on customer satisfaction and value for money.
e. To ensure that all commissioning activity contributes to the Council's commitment to local spend and promotion of social value.
f. Provide a sounding board on strategic commissioning issues.

9.13.3 The Contracts Performance Panel will support the scrutiny work programme of the Council and will report directly to the Place Select Committee. The Panel will have the power to recommend urgent action if it considers that the performance of a provider is inadequate, or if demand can be met from other existing services through new models of service delivery. Contracts Performance Panel may require or invite the Leader of the Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

9.14 HOUSING PERFORMANCE PANEL

9.14.1 The Housing Performance Panel will have 10 members and must be politically balanced. Councillors appointed to serve on the Cabinet cannot be members of the Housing Performance Panel. Quorum is three (3) Members. No Member representative on South Tyneside Homes, South Tyneside Housing Ventures Trust or Centaurea Homes Limited shall be a Member of the Housing Performance Panel.

9.14.2 The Housing Performance Panel is a Scrutiny Performance Panel supporting the scrutiny function of the Council by overseeing discrete policy areas and is responsible for examining and analysing specific housing performance and related issues. The Panel will receive regular updates of the Council's five-year plan for housing, performance reports, consider the effectiveness of housing services against South Tyneside Homes Delivery Plan and will have the following functions:

a. To provide Members with the opportunity to represent the views of residents and review the Council's five-year plan for housing, the performance of the housing provision commissioned externally – with a particular focus on South Tyneside Homes (STH), South Tyneside Housing Ventures Trust and Centaurea Homes Limited but in consideration of all Social Housing Providers.

b. Help to shape the priorities in the Council's five-year plan for housing and the STH Annual Delivery Plan in advance of its agreement by the Cabinet.

c. Through regular performance reports, comment on the effectiveness of housing services against the STH Delivery Plan, as well as other housing support services (including Extra Care) with an emphasis on:

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

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

9.14.3 The Housing Performance Panel will support the scrutiny work programme of the Council and will report directly to the Place Select Committee. The Panel will have the power to recommend urgent action if it considers it appropriate. The Housing Performance Panel may require or invite the Leader of the

Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

9.15 EDUCATION AND SKILLS PERFORMANCE PANEL

9.15.1 The Education and Skills Performance Panel will have 10 members and must be politically balanced. Councillors appointed to serve on the Cabinet cannot be members of the Education and Skills Performance Panel. Quorum is three (3) Members. The Panel will consider issues in depth relating to the performance of local schools. The Education and Skills Performance Panel is a Scrutiny Performance Panel supporting the scrutiny function of the Council by overseeing discrete policy areas and is responsible for examining and analysing specific performance and related issues concerned with children's safeguarding services and local schools.

9.15.2 The panel will examine the performance of all education providers in the Borough – including all schools and early years settings, adult education, with a focus on:

a. Holding underperforming schools to account.
b. Analysis of the performance of independent academies.
c. Analysis of schools where attendance, exclusions, and children missing from education are a concern.
d. Analysis of exam results and baseline data; and
e. Analysis of how well the skills teaching provision in the Borough is maximising opportunities for employment.

9.15.3 The Education and Skills Performance Panel will support the scrutiny work programme of the Council and will report directly to the People Select Committee. The Education and Skills Performance Panel will have the power to recommend urgent action if they have concerns about the effectiveness of local services or if it considers it appropriate. The Panel may require or invite the Leader of the Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

9.16 CHILDREN AND ADULTS SAFEGUARDING PANEL

9.16.1 The Children and Adults Safeguarding Panel will have 10 members. and must be politically balanced. Councillors appointed to serve on the Cabinet cannot be members of the Children and Adults Safeguarding Panel. Quorum is three (3) Members. The Children and Adults Safeguarding Panel is a Scrutiny Performance Panel supporting the scrutiny function of the Council by overseeing discrete policy areas and is responsible for examining and analysing specific performance and related issues concerned with Children and Adults safeguarding.

9.16.2 The Panel will consider issues in depth relating to the performance of safeguarding services for children and adults in the Borough.

9.16.3 The panel will, through regular performance reports, comment on the effectiveness of safeguarding services for children and adults, with an emphasis on:

a. The quality and effectiveness of social work practice.
b. Allegations management; and
c. Local partnership safeguarding arrangements

9.16.4 The Children and Adults Safeguarding Panel will support the scrutiny work programme of the Council and will report directly to the People Select Committee. The Children and Adults Safeguarding Panel will have the power to recommend urgent action if they have concerns about the effectiveness of local services or if it considers it appropriate. The Children and Adults Safeguarding Panel may require or invite the Leader of the Council, Cabinet Members and Council Officers to attend any of its meetings and answer questions.

9.17 CONSTITUTION COMMITTEE

9.17.1 The Constitution Committee will have a membership of at least nine (9) with the membership comprising the Mayor, the Leader of the Council, the Deputy Leader of the Council, a representative from each of the five Community Area Forums with such number of members of the opposition political groups as is required to achieve political balance. Two (2) Substitute Members (one to substitute for the majority group and one to substitute for the minority group) will also be appointed in accordance with Rule 20 of the Council Procedure Rules.

9.17.2 The Constitution Committee will be chaired by Leader of the Council.

9.17.3 The Constitution Committee will meet at least twice annually and must always meet shortly before the Annual Meeting of Borough Council to carry out a formal review of the Constitution. The Constitution Committee will be the guardian of the Council's Constitution and will be responsible for making recommendations to amend the Constitution to reflect changes in regulations and governance practices and will also make recommendations to Full Council in respect of civic awards and recognition.

9.17.4 The Constitution Committee will have the following functions:

a. consider any changes required or proposed as part of the Annual Review of the Constitution by the Monitoring Officer prior to making a recommendation of the Constitution Committee to the Annual Meeting of the Council.

b. consider any other proposed changes to the Constitution prior to making a recommendation to Full Council.

c. consider any review of plans and strategies included in the Policy Framework required having considered changes to the Constitution prior to making recommendation of the Constitution Committee.

d. consider any proposals for conferring the Freedom of the Borough prior to making a recommendation to Borough Council.

e. consider any proposals for conferring the Mayor's Civic Award prior to making a recommendation to the Mayor.

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

g. review business and voluntary sector Community Area Forum members annually and where appropriate make recommendations to Annual Council in this regard; and

h. review the South Tyneside community-based representatives on the Place Select Committee and People Select Committee annually and where appropriate make recommendations to Annual Council in this regard.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 10 - PENSIONS COMMITTEE

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

10.2 The role of the Pensions Committee will be to control and resolve all matters relating to the administration of the Tyne and Wear Pension Fund and the management and investment of the assets of the Tyne and Wear Pension Fund where investments are made directly by the Fund and the investment of the assets of the Fund where those investments are made through Border to Coast Pensions Partnership Limited ("BCPP") as the Tyne and Wear Pension Fund's pooled investment provider.

10.3 The Pensions Committee will have 8 Councillors from South Tyneside Council, 1 Councillor each from the other four Tyne and Wear local authorities and 1 Councillor from Northumberland County Council. Each of the other five participant local authorities will also each appoint a substitute member to attend Committee in a voting capacity when the first nominated Councillor cannot attend.

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

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

10.6 Three members of the Pensions Committee will sit on the Investment Panel along with the external Investment Advisor and appropriate officers. The Panel will scrutinise the investment strategy of the Tyne and Wear Pension Fund and the performance of investment managers (including the management of sub funds in which the Pension Fund invests) and will report to each quarterly meeting of the Pensions Committee.

10.7 The Chair of the Pensions Committee (or the Vice Chair where the Chair is unable to do so) will, unless the Council at its annual meeting stipulates otherwise, represent the Tyne and Wear Pension Fund in all matters relating to BCPP including:

10.7.1 The exercising of voting rights arising from the Funds shareholding in BCPP Limited.

10.7.2 Representing the Fund at BCPP Joint Committee meetings.

10.8 The responsibilities to be discharged by the Committee include: -

10.8.1 Preparing, maintaining and publishing the Governance Compliance Statement.

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

10.8.3 Preparing, maintaining and publishing the Funding Strategy Statement.

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

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

10.8.6 Setting the admissions policy.

10.8.7 Preparing, maintaining and publishing the Communication Policy Statement.

10.8.8 Ensuring appropriate Additional Voluntary Contribution (AVC) arrangements are in place.

10.8.9 Preparing, maintaining and publishing the Investment Strategy Statement.

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

10.8.11 Appointing, dismissing and assessing the performance of Investment Managers and Custodians where direct investments are maintained.

10.8.12 Selection, appointment and dismissal of an investment pooling operator to manage the assets.

10.8.13 Determining what the administering authority requires BCPP to provide to enable it to execute its local investment strategy and requesting what it needs via its representative on the Joint Committee.

10.8.14 Preparing, maintaining and publishing the Pensions Administration Strategy.

10.8.15 Preparing, maintaining and publishing the Corporate Governance Policy.

10.8.16 Preparing and maintaining a Responsible Investment Policy which takes account of the policy operated by BCPP.

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

10.8.18 Ensuring appropriate participation in the Joint Committee established to scrutinise the operation of BCPP.

10.8.19 Monitoring the performance and effectiveness of BCPP to ensure:

- it is providing an effective means of delivering the investment strategy (e.g., types of assets and style of investment management)
- it is meeting the objectives that have been set (including requirements in relation to responsible investment)

10.8.20 Agreeing and / or amending the governance documents BCPP, including the terms of reference for the BCPP Joint Committee.

10.8.21 Receiving and considering reports from BCPP and the Joint Committee and maintaining an effective mechanism for making recommendations to the Joint Committee.

10.8.22 Identifying and managing the risks associated with investment pooling.

10.8.23 Ensuring that appropriate measures are in place to monitor and report on the ongoing costs of investment pooling.

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

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

Local Pension Board

10.11 The Local Pension Board will consist of 8 members. The relevant Trade Unions will nominate triennially 4 representatives to sit on the Local Pension Board as member representatives in a voting capacity.

10.12 The employers who participate in the Fund (other than South Tyneside Council) will nominate triennially 3 representatives to sit on the Local Pension Board as employer representatives in a voting capacity.

10.13 The Council will appoint 1 South Tyneside Councillor, independent of Pensions Committee and the discharge of the functions of the Administering Authority, to sit on the Local Pension Board as an employer representative in a voting capacity.

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

10.14.1 To secure compliance with the Local Government Pension Scheme Regulations 2013 (as amended) and any other legislation relating to the governance and administration of the Fund.

10.14.2 To secure compliance with any requirements imposed by the Pensions Regulator in relation to the Fund.

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

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

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

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

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

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

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

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

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

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 11 - THE COMMUNITY AREA FORUMS

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

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

Hebburn (Hebburn North, Hebburn South and Monkton wards)

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

Riverside (Beacon & Bents, Simonside & Rekendyke, West Park and Westoe wards)

West Shields and Cleadon and East Boldon (Biddick & All Saints, Cleadon and East Boldon and Whiteleas wards

11.2 Role of Community Area Forums

The roles of Community Area Forums will be to: -

11.2.1 assist local Members to listen to and represent the interests of their community.

11.2.2 build partnerships and inter-agency working with local public, private and voluntary organisations.

11.2.3 develop structures and approaches that ensure the involvement of residents, communities of interest and identify any hard-to-reach groups or those seldom heard in local issues and decisions;

11.2.4 develop strong mechanisms for community participation.

11.2.5 contribute to the South Tyneside Council Strategy, community planning, neighbourhood renewal and tackling inequalities and other area-based initiatives to promote the wellbeing of the area.

11.2.6 influence strategies and plans through local consultation.

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

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

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

11.2.10 to agree the expenditure of CAF Funding to appropriate projects across Housing Capital Schemes, Environmental Capital Schemes and Social Schemes, within their area in accordance Council priorities and the budget allocated to them; and

11.2.11 recommend and advise generally.

11.3 All 54 Councillors will be members of the CAF for the area they represent. The Committees will not, therefore, be politically balanced. Each CAF can have at least one representative of the business community and at least one representative from the voluntary sector and no more than four (4) community representatives in total. The Constitution Committee will review the business and voluntary sector CAF memberships annually, but Members will be encouraged to consider representatives with experience.

11.4 The CAFs will meet approximately every six weeks in accordance with the Council diary. The meetings will be open to the press and public.

11.5 Ordinary meetings of the CAFs will be structured in two main parts:

a. a public issues session (significant local issues or updates focused on local priorities e.g., community safety - to include the report from Northumbria Police). If invited, at the Chairman's Discretion, the public will be able to participate in the discussion during this section of the meeting; and

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

11.6 CAFs may add specific themes or issues to their Agenda or hold additional meetings on specific themes or issues as necessary.

11.7 Matters delegated to CAFs for decision will remain the responsibility of the Cabinet, which is responsible for the clear, accountable corporate leadership of the Council.

11.8 Each CAF will have its own Chair and Vice Chair. The Chair has the right to lead the meeting and can use the powers as set out in the Council Procedure Rules (Part D Section 1) so far as is necessary for chairing the meeting.

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

11.10 Operating Procedures

11.10.1 CAF Environmental Capital Scheme - Operating Procedures

It is agreed that there will be very limited restrictions for which this funding can be used, so that local solutions to local needs can be developed. The main aim is that the expenditure brings about real changes and improvements for the residents of South Tyneside.

Expenditure is audited and the following restrictions are in place:

- The CAF should receive an estimate of the cost of works and any risks or service implications arising as a result of the proposed works.

- The benefit to the wider community should be established before a decision is sought by the CAF.

- Funding for a project and the reason for community benefit should be proposed by a member of the CAF and seconded by another member and agreement of the CAF sought by the Chair.

In the case of a dissenting voice, a show of hands or a vote of all CAF members should be undertaken. The project will be agreed by a majority of members present at the CAF.

- Members may choose to abstain from a vote or show of hands and agreement will be carried by those participating in the vote or show of hands.

- Funding should be agreed by the CAF before work commences.

- The work must be capital in nature, which does not include grounds maintenance work (eligibility of individual schemes will be confirmed by the Community Resource & External Funding Officer).

- Work cannot normally benefit an individual resident, unless it is agreed by the CAF that the work will provide a wider benefit to the surrounding environment or community.

- Expenditure should be carried out within each financial year.

- The grant scheme cannot be used to support local neighbourhoods scheme applications.

    - To ensure that all work is carried out in the financial year, Community Area Forums are asked to identify the schemes early in the financial year to ensure delivery and value for money and seek to allocate funding by the end of December 2022.

    - It is likely that any engineering or other works will be carried out by Highways Engineering Service, South Tyneside Homes or contractors on the Council's existing procurement framework to ensure value for money

11.10.2 CAF Housing Capital Scheme

It is agreed that there will be very limited restrictions for which this funding can be used, so that local solutions to local needs can be developed. The main aim is that the expenditure brings about real changes and improvements for the tenants of South Tyneside Council.

As the expenditure is audited the only restrictions are:

- The funds should be spent on council housing or council housing estates.

- The CAF should receive an estimate of the cost of works and any risks or service implications arising as a result of the proposed works.

- The benefit to the wider community should be established before a decision is sought by the CAF.

- Funding for a project and the reason for community benefit should be proposed by a member of the CAF and seconded by another member and agreement of the CAF sought by the Chair. In the case of a dissenting voice, a show of hands or a vote of all CAF members should be undertaken. The project will be agreed by a majority of members present at the CAF.

- Members may choose to abstain from a vote or show of hands and agreement will be carried by those participating in the vote or show of hands.

- Funding should be agreed by the CAF before work commences.

- The work must be capital in nature, which does not include grounds maintenance work (eligibility of individual schemes will be confirmed by the Community Resource & External Funding Officer).

- Work cannot normally benefit an individual resident, unless it is agreed by the CAF that the work will provide a wider benefit to the surrounding environment or community or overall Council stock (for example new energy solutions).

- Expenditure should be carried out within each financial year.

- The grant scheme cannot be used to support local neighbourhoods scheme applications.

- To ensure that all work is carried out in the financial year, Community Area Forums are asked to identify the schemes early in the financial year to ensure delivery and value for money and seek to allocate funding by the end of December 2022.

- It is likely that any engineering or other works will be carried out by Highways Engineering Service, South Tyneside Homes or contractors on the Council's existing procurement framework to ensure value for money.

11.10.3 CAF Local Neighbourhood Scheme

The Council budget includes a revenue allowance for the Community Area Forum Local Neighbourhood scheme, which supports small-scale locally important social and environmental projects. The aims and objectives of the scheme are as follows:

- To fund projects which are a high priority in local terms, but which cannot be funded from other mainstream or borough wide sources.

- To help local voluntary and community organisations to develop and extend their activities for the benefit of disadvantaged groups.

- To stimulate self-help within the community, develop a community spirit and enhance local pride within the borough.

- To undertake small scale, locally important improvements and projects which deliver at a local level.

The Community Area Forums considers and approves projects, and a Community Resource & External Funding Officer based in the Council's Governance and Corporate Affairs administers the scheme.

Applications Procedures

For local neighbourhood schemes, application forms are available and should be returned to the Community Resource & External Funding Officer. All applications will be appraised, and details on the project will be included on a report for consideration by the next available meeting of the relevant Community Area Forum.

Guidance and Eligibility

Advice and guidance for applicants is available from the Community Resource & External Funding Officer.

The following eligibility criteria should be applied to all applications: -

The scheme will support a wide range of social, environmental, recreational and arts related initiatives, with the following exceptions:

- Projects, which relate to purely religious or political activity.

- Requests for existing revenue running costs of organisations, i.e., Staff costs and other routine items, with the exception of temporary staff where there is clear evidence of a new outcome which provides an additional benefit, e.g., to reach groups of residents with protected characteristics or disadvantaged communities. Organisations can apply for up to £500 and must make a financial contribution towards this cost.

- Foodbanks and projects being undertaken by organisations already in receipt of revenue support from the Borough Council, except where the assistance is required to support new or extended activity or where an emergency situation for which the group has been unable to make prior arrangements for funding has arisen.

- Projects, which relate to the purchase of equipment that will be used/stored at a property registered as a domestic dwelling.

- Projects which relate to shopping trips out of South Tyneside.

- Applications from local organisations which relate to any work to Council owned non-residential buildings (any such work should be Member led and managed through Asset Management).

- Applications submitted by Council services with the exception of sheltered housing or children's homes unless directly requested by an elected member.

- The grant scheme must not be used to purchase alcohol, fireworks or gifts.

- Applications from groups for events/festivals that are already receiving financial/in kind support.

- Applications with start/event dates less than 8 weeks from the date the form is submitted.

- Groups must have sought funding through the Council's funding portal before making an application to CAF for applications seeking funding to purchase any equipment.

- Groups must make a financial contribution towards the total cost of their project and agree to submit receipts, the total of which should include their contribution.

- Groups are strongly advised to apply for Community Foundation funding before making an application to CAF for applications seeking funding to purchase equipment or seeking more than £500 (i.e., for fun days).

- CAF grants are the funder of 'last resort', and applicants should demonstrate that they have exhausted other potential funding sources. Local Neighbourhood Scheme applications will not be considered under delegated decisions except under exceptional circumstances.

- Room Hire is classed as an in-kind contribution and not a financial contribution.

- As receipts must include the group contribution, shortfalls in spend must be deducted from the grant awarded.

- Only one application per year will normally be considered from any one organisation

- Grant assistance will not be provided on a retrospective basis.

- All applications should include formal estimates or evidence of the costs involved (including VAT). Grant recipients will be required to provide evidence of spend.

- Grants must be spent within the current financial year they are approved and applications for funding made by the end of December.

- Any grant awarded cannot be adjusted later to allow for price increases.

- The maximum level of grant which will normally be provided is £1,000 for projects providing a long-term benefit. A maximum award of £500 will normally apply where it is in relation to a one-off event with the exception of community events.

- All applications will be acknowledged within two weeks of their receipt.

- The whole of the grant assistance (or part thereof at the discretion of the Council) paid to a group will become repayable if any of the conditions are broken, or if false information is knowingly given in the application form submitted.

- All organisations in receipt of grant funding from the Council are required to promote the scheme by either including the Council's logo or the words 'Supported by South Tyneside Council' on all publicity and advertising.

- Any grants awarded must be spent within South Tyneside.

- Businesses are not eligible to apply for funding

- Any group failing to provide receipts for any grant expenditure will not be able to apply for future grant assistance.

- Groups can usually only apply for funding for one project in one year, i.e., applications must not be for outing/party and equipment.

- Applications for funding towards community events must include an event plan.

- Funding may also be applied to small scale environmental improvements

Consideration of Applications by one Community Area Forum

Applications with at least 80% membership relating to one Community Area Forum will be considered and decisions taken by the full Community Area Forum. The Community Area Forum may request further information/ clarification from an applicant. The Community Area Forum will consider how the project meets local needs in taking their decision.

The Community Area Forum may defer a decision on an application for one meeting on the grounds that further information/ clarification is required (under such circumstances, the Community Area Forum should identify the information/ clarification required from the applicant).

Decisions taken by the Community Area Forum will be subject to normal Council constitutional procedures (including the Members Code of Conduct).

Consideration of Applications covering three or more Community Area Forums

All other applications will be sent to all relevant CAFs based on their membership breakdown. Funding will only be sought from CAFs if the contribution will be £50 or more. The requested funding would then be split between the other relevant CAFs.

Consideration of very urgent meeting of the relevant Community Area Forum

For those urgent applications, that will deliver activities before the next ordinary meeting of the relevant Community Area Forum, an authorised officer may take a delegated decision. A delegated decision will only be taken in circumstances of urgency, and officers will seek and record the views about the applications from all CAF members and then seek the recommendations of the appropriate Chair and Vice Chair prior to taking a decision. Delegated decisions must not be used to change a previous CAF decision.

Changes to CAF decisions

Changes to CAF decisions, e.g., withdrawal of a project must be made by the CAF at their next meeting. Changes to CAF decisions, e.g., agreeing additional costs incurred, should be made by the CAF at their next meeting. If exceptional circumstances arise, that cannot wait until the next CAF, approval for additional spend to be sought from all CAF members before work commences and the total project cost must be reported to the next meeting of the CAF.

Notification of Decision

For local neighbourhood schemes, the Community Resource & External Funding Officer will write to the applicant, notifying them of the decision taken. Where a grant has been approved, the letter will include any specific conditions of grant offer, terms and conditions of the funding scheme to sign and return for the payment to be generated, and a form to provide feedback. For internal schemes, relevant officers undertaking the work will be notified, and the Community Resource & External Funding Officer will make a budget transfer.

Monitoring

The Community Resource & External Funding Officer will monitor local neighbourhood schemes, ensuring grants are paid and feedback on project activity

and evidence of expenditure is provided. The Area Manager will liaise with officers in Economic Regeneration and other departments, to ensure capital schemes are monitored and implemented.

Questions about the CAF scheme

Questions about the eligibility of projects should be raised with the Community Resource & External Funding Officer in the first instance who will provide advice based on the CAF operating procedures. Any questions on advice received in respect of funding should be escalated to the Director, Business and Resources. The Monitoring Officer can provide advice on interpreting the Operating Procedures.

Promotion of the CAF Social Scheme

Officers will take actions to promote CAF Social Scheme to encourage new applicants to access the fund. Officers will encourage the feeding through of success stories to South Tyneside Newsletter and the local press (where necessary ensuring all appropriate local members have been offered involvement in any publicity, and the appropriate Community Area Forum Chair has been consulted).

Feedback on CAF Social Schemes

Feedback will be sought from all projects.

Operating Procedures Specific to Individual Community Area Forums

The following CAF specific operating procedures were in place for 2021/22 grant scheme. CA's will have the opportunity to set any CAF specific operating procedures for 2022/23 at their first meeting in the municipal year, however any additional operating procedures set must be within the scope of the schemes, as set out in this report.

East Shields and Whitburn Community Area Forum had no CAF specific operating procedures in place for 2021/22.

Hebburn Community Area Forum had agreed to the following additional operating procedure:

- All applications for parties / outings will be limited to £6 per person

Jarrow and Boldon Community Area Forum has agreed to the following operating procedure:

- All capital projects to be considered need to include a map outlining the area of work.

Riverside Community Area Forum had agreed to the following additional operating procedures:

- Applications for Christmas related social schemes to be held back and considered in the Autumn.

West Shields, Cleadon & East Boldon Community Area Forum had no additional operating procedures in place for 2021/22.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 12 - THE STANDARDS COMMITTEE

12.1 Each Authority must adopt "arrangements" for dealing with complaints alleging a breach of the Members' Code of Conduct. As part of those arrangements the Council has set up a Standards Committee.

12.2 The Committee is responsible for:

a) the promotion and maintenance of high ethical standards within the Council.

b) helping to secure adherence to the Members' Code of Conduct.

c) monitoring the operation of the Code within South Tyneside.

d) promoting and reviewing a Council Whistleblowing Policy.

e) if a complaint is referred to the Standards Committee for a decision on whether to investigate, making a decision as to whether an allegation should be investigated and, if so, instructing the Monitoring Officer to appoint an Investigating Officer to conduct an investigation and produce a report thereon.

f) considering the Final Report of the Investigating Officer with regards a complaint against an Elected Member and deciding whether or not to accept the Investigating Officer's finding (if the finding is that the Member has not failed to comply with the Code of Conduct) or deciding that the matter should be considered at a hearing of the Standards Committee.

g) conducting hearings following investigation in accordance with Annex C (including following requests for review) and deciding whether or not there has been a failure to comply with the Code of Conduct where the Investigating Officers report concludes that there has been a failure by the Member to comply with the Code of Conduct for Members; and

h) deciding upon appropriate sanctions and penalties where a Member has failed to comply with the Code of Conduct and making the necessary recommendations to Full Council with regards those sanctions, if appropriate.

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

12.4 The Standards Committee will comprise:

12.4.1 Seven (7) Councillors (including one Cabinet Member) and two (2) Substitute Members (one to substitute for the majority group and one

to substitute for the main minority group) in accordance with Rule 20 of the Council Procedure Rules.

12.4.2 One or more person(s) who is not a councillor or officer of the Council or any other authority which has a Standards Committee and is completely independent from the Council, its Elected Members and any political party ("Lay Member").

12.4.3 Any vacancy in the appointment of or none attendance of a Lay Member shall not invalidate the proceedings of the Committee. The Lay Member(s) may not vote at meetings.

12.4.4 Any Elected Member may serve as a member of the Standards Committee except for the Leader of the Council and Deputy Leader of the Council who shall not be a member of the Standards Committee.

12.4.5 A Lay Member will chair the Committee and any sub-committee of the Standards Committee ("Independent Chair").

12.4.6 The Independent Person(s) appointed by the Council will also be invited to attend all meetings of the Standards Committee. The Localism Act 2011 requires that before a decision is taken on an allegation, the Council's Monitoring Officer seeks, and the member complained about can seek the views of a duly appointed independent person. The Independent Person(s)

- must be consulted by the Committee before it makes a decision on a matter that has been referred to it for investigation.
- can be consulted by the Committee or the Monitoring Officer in respect of a Code of Conduct complaint at any other stage of the investigative process; and
- can be consulted by a Member or co-opted member of the Council against whom a complaint has been made.

12.5 The quorum for a meeting of the Standards Committee shall be three (3) members (not including a Lay Member(s)).

12.6 When the Standards Committee is meeting to deal with the investigation or determination of a complaint under the Members' Code of Conduct, it may require the attendance of any Officer or Elected Member to assist the Committee and it is the duty of those persons to attend. The Independent Chair of the Standards Committee may invite any other person to attend a meeting of the Committee held for such purpose.

12.7 The Monitoring Officer (or their nominated representative) will attend the meetings of the Standards Committee.

12.8 In hearings of the Standards Committee there will be no party whipping on

voting.

12.9 Extraordinary meetings of the Standards Committee may be called, where possible following consultation with the Independent Chair and Vice Chair, where it is considered necessary or appropriate (for instance for the purposes of consideration of an Investigation Report or the hearing of a complaint), or at the request of the Independent Chair and Vice Chair or any three Members of the Committee.

12.10 The Standards Committee will have the following roles and functions:

Statutory Ethical Framework

12.10.1 promoting and maintaining high standards of conduct by Councillors, co-opted members and all governor representatives.

12.10.2 assisting the Councillors and co-opted members and governor representatives to observe the Members' Code of Conduct.

12.10.3 advising the Council on the adoption or revision of the Members' Code of Conduct.

12.10.4 monitoring the operation of the Members' Code of Conduct and Member complaints generally.

12.10.5 advising, training or arranging to train Councillors and co-opted members and governor representatives on matters relating to the Members' Code of Conduct.

12.10.6 granting dispensations to Councillors and co-opted members and governor representatives from requirements relating to interests set out in the Members' Code of Conduct in accordance with the relevant Regulations from time to time.

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

Local Ethical Framework

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

12.10.9 overview of the Council's Whistleblowing Policy.

12.10.10 overview of complaints (both Corporate Complaints and Complaints under the Member's Code of Conduct), handling procedures and Ombudsman investigations.

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

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

12.11 The Standards Committee operates under the Council's approved arrangements relating to how complaints that a Member has failed to follow the Members' Code of Conduct should be dealt with. Those arrangements include the opportunity for a complainant to seek a review by the Monitoring Officer, in consultation with the Independent Person and Independent Chair of the Standards Committee, of the decision of the Monitoring Officer not to refer a complaint for investigation and for a Member who is subject to such a complaint, to seek a review of a decision of the Committee where a breach of the Code has been found.

12.12 Once a complaint has been dealt with and any review process completed there is no further right of review or appeal available within the Council.

12.13 Currently, the Local Government Ombudsman does not offer a right of appeal against a Council's decision on Member conduct complaints but can consider if there was fault in the way the Council considered the complaint. The LGO will only investigate complaints if there is sufficient injustice to warrant their involvement or if they consider it in the public interest to do so.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 13 - SOUTH TYNESIDE HEALTH AND WELLBEING BOARD

13.1 The Council is required to appoint a Health and Wellbeing Board to improve the overall health and wellbeing of the population (increasing life expectancy and healthy life expectancy), reduce health inequalities and to ensure that there is an integrated approach to the provision of health and social care services in the area. The Board brings together representatives from a range of relevant organisations to provide shared leadership of the strategic approach to health and wellbeing of communities in South Tyneside.

13.2 The Board is responsible for:

- encouraging the commissioners and providers of health and social care services to work in an integrated manner to improve the health and wellbeing of people in the area through services that are proactive, personalised and fair, including the making of joint arrangements.

- preparing a Joint Strategic Needs and Assets Assessment, Joint Health and Wellbeing Strategy and Pharmaceutical Needs Assessment; and

- encouraging the policy makers commissioners and providers of functions related to the wider- determinants of health services, such as housing, transport and employment to work collectively with the Board to improve overall health and wellbeing.

13.3 Vision

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

13.4 Purpose

13.4.1 Under section 194 of the Health and Social Care Act 2012**,** the Board is a Committee of the Council which established it and it is to be treated as if appointed under section 102 of the Local Government Act 1972.

13.4.2 Health and Wellbeing Boards were introduced to build strong and effective partnerships that would improve health and wellbeing, reduce inequalities and improve services across NHS, local government and wider partners. The Health and Social Care Act 2012 creates a common flexible framework, by requiring that every upper tier local authority area establish a health and wellbeing board effective from April 2013.

13.4.3 The purpose of South Tyneside Health and Wellbeing Board will be to improve the health and wellbeing of the people of South Tyneside and

reduce current inequalities in health outcomes. The Board will provide 'whole system leadership' for the local health economy and hold partner organisations to account for improving health and wellbeing outcomes.

13.5 Main Duty and Functions

In accordance with the provisions of the Health and Social Care Act 2012, the Health and Wellbeing Board has a duty to encourage integrated working for the purposes of advancing the health and wellbeing of the people in its area. Specifically, the Health and Wellbeing Board has the following functions

- To assess the and understand the needs of the local population and lead the statutory Joint Strategic Needs and Assets Assessment (JSNAA).
- To promote integration and partnership across areas, including through promoting joined up plans across the NHS, social care and public health.
- To support joint commissioning and pooled budget arrangements where all parties agree this makes sense.

13.6 Key Responsibilities

13.6.1 To provide strategic leadership in driving the Board's vision for improving the health and wellbeing of the whole population.

13.6.2 To assess and understand the needs of the local population by overseeing the production of the statutory JSNAA.

13.6.3 To effectively engage with our communities to better understand their health and wellbeing needs.

13.6.4 To produce and publish a Joint Health and Wellbeing Strategy based on the JSNAA and monitor its delivery, holding partner organisations to account for performance in relation to agreed priorities.

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

13.6.6 To promote integrated working between health and social care through joined up commissioning and provision plans.

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

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

13.7 Membership

13.7.1 The Health and Social Care Act 2012 requires that as a minimum a Health and Wellbeing Board must consist of at least one Councillor of the local authority, the Director of Adult Social Services, the Director of Public Health, the Director Children Services a representative of the local Healthwatch organisation, a representative of each NHS Commissioning Organisation, and such other persons as the local authority thinks appropriate.

13.7.2 The Chair of South Tyneside Health and Wellbeing Board will be the Leader of the Council, or their representative. This will be subject to review in line with the development of the Health and Wellbeing Board. The membership of the South Tyneside's Health and Wellbeing Board will comprise the following:

Sector	Designation/Organisation
Local Authority Elected Members	Leader, South Tyneside Council Lead Member, Independence and Wellbeing, South Tyneside Council Lead Member, Children, Young People and Families, South Tyneside Council
Local Authority Chief Officers	Director of Public Health, South Tyneside Council Director of Adult Social Services, South Tyneside Council Director Children Services, South Tyneside Council Director of Regeneration and Environment
NHS Commissioning	Chair, NHS South Tyneside Clinical Commissioning Group Accountable Officer, NHS South Tyneside Clinical Commissioning Group Associate Director of Operations, NHS South Tyneside Clinical Commissioning Group Clinical Director, NHS South Tyneside Clinical Commissioning Group
NHS Provider Services	Chair, South Tyneside and Sunderland NHS Foundation Trust Chief Executive, South Tyneside and Sunderland NHS Foundation Trust Chief Executive, Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust
Northumbria Police	Chief Superintendent Area Commander, Southern
Community Champions	Representative, Local Healthwatch Chair, Health.Net Chief Executive, Inspire Clinical Director, Primary Care Network

13.7.3 It will be possible for the Health and Wellbeing Board to appoint a Deputy Chair from within its membership and the Chair of the NHS South Tyneside Clinical Commissioning Group will be appointed Deputy Chair.

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

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

13.8 Conflicts of Interest

13.8.1 The regulations under section 194 of the Health and Social Care Act 2012 do not modify or disapply any legislation relating to codes of conduct and conflicts of interest. This means that legislation in relation to these issues will apply to Health and Wellbeing Boards.

13.8.2 All Councillors and co-opted members of Council Committees are required to comply with a Member's Code of Conduct. This means that all voting members of Board will be governed by the local authority's Member's Code of Conduct.

13.9 Accountability

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

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

13.10 Meetings

13.10.1 Meetings of the Health and Wellbeing Board will be held at least quarterly and will be conducted in public.

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

13.10.3 Agendas, reports and minutes will be published on the Local Authority's website. Quorum for the meeting shall be 50% of the membership including at least one Elected Member of the Local Authority and one representative from the NHS Commissioning Organisation.

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

13.11 Ways of Working and Identifying Needs and Priorities:

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

- Reach a shared understanding of the health needs, inequalities and risk factors in local populations, based on the JSNAA and other evidence, and demonstrate how this evidence has been applied to the Health and Wellbeing Boards decisions and strategic priorities.

- Reach a shared understanding of how improvements in outcomes will be monitored and measured; and

- Ensure that the CCG demonstrate how the JSNA, and other appropriate evidence have been used in their commissioning decisions.

13.12 Strategy

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

- Take account of the JSNAA and the recommendations of the Director of Public Health's Annual Report.

- Take account of the views of local patients and service users as captured by the local Community Champions.

- Focus collective efforts and resources on the agreed set of strategic priorities for health and wellbeing.

- Ensure the work of the Health and Wellbeing Board develops in line with local and national policy developments and legislation.

- Ensure a strategic overview of the work of commissioners to further the work of the Board's strategic objectives.

- Ensure that the NHS Commissioning Organisation demonstrate how the Joint Health and Wellbeing Strategy has been used in their commissioning decisions.

- Quality assures and signs off joint delivery plans to achieve the Health and Wellbeing Board's agreed strategic outcomes.

- Challenge performance of delivery plans which support the strategic priorities of the Health and Wellbeing Board, taking action as necessary, including by agreeing recovery and improvement plans.

- Be accountable for applicable outcomes, as agreed by partners, using agreed performance frameworks.

13.13 Achieving Outcomes

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

- Provide system level oversight to the totality of commissioning expenditure in South Tyneside which is relevant to achieving the Health and Wellbeing Board's strategic priorities.

- Identify service areas where additional improvements in joint commissioning are required to achieve priority outcomes and recommend the development of aligned or pooled budgets where that would enable improved service delivery.

- Facilitate effective joint commissioning including the development of appropriate partnership agreements, financial protocols and monitoring arrangements.

- Where there are realistic efficiencies in relevant public sector services encourage partners to share or integrate services.

- Have an overview of the management of resources already committed.

- Make recommendations on the priority of projects and allocation of resources to service providers as appropriate, in order to achieve jointly agreed objectives.

- Have an overview of major service reconfiguration by providers of relevant services and make recommendations to those providers to enable improved and integrated delivery of services.

13.14 Communication and Engagement

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

- Develop and implement a Communication and Engagement strategy for the work of the Health and Wellbeing Board, including how its work will be influenced by stakeholders and the public, and how it will discharge the specific duties in regard to consultation and engagement on service change.

- Represent South Tyneside at local, regional and national level.

- Work closely with local Community Champions.

13.15 Review of Terms of Reference

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

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 14 - JOINT ARRANGEMENTS

14.1 In accordance with a local authority's general power of competence, the Council or the Cabinet may:

- agree to enter into arrangements or agreements with any person or body.
- co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- exercise on behalf of that person or body any functions of that person or body.

14.2 The above is subject to the provisions of paragraph below and in accordance with any limitations imposed by legislation.

14.3 The Council may establish joint arrangements:

- The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are non-executive functions. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- The Leader may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.
- The Leader may appoint Cabinet or non-Cabinet Councillors to a Joint Committee where that Committee is discharging a function in relation to five or more authorities or a function which is required to be discharged by a Joint Committee.
- Where only one Member of the Council is required to be appointed to the Joint Committee that Member does not need to be a Cabinet Member.
- If there is more than one Member of the Council required to be a Member of the Joint Committee at least one of the appointed Members must be a Cabinet Member.
- Details of any joint arrangements including any delegations to joint committees are set out below.

14.4 Where the Council has established a joint arrangement that involves the creation of a joint committee, the Council must appoint Members to that joint committee and where the functions undertaken by the joint arrangement relate

to the whole of the Borough Members must be appointed in accordance with political balance requirements.

14.5 Where the Council has established a joint arrangement that involves the creation of a joint committee, and the functions undertaken by the joint arrangement only relate to a part of the Borough, the political balance requirements do not apply, and the Council must appoint to that joint committee those Members whose wards are in the part of the Borough covered by the joint arrangement.

14.6 Except as set out below, the Cabinet may only appoint Cabinet Members to a joint committee that is exercising executive (Cabinet) functions and those Members need not reflect the political composition of the Council as a whole. The Cabinet may appoint non-Cabinet Members to a joint committee exercising executive (Cabinet) functions where the joint committee is discharging functions in relation to five or more local authorities. Furthermore, the Cabinet may appoint non-Cabinet Members to a joint committee exercising executive (Cabinet) functions where the joint arrangements apply to part of the Borough only. In such cases, the Cabinet may appoint to the joint committee councillors who are Members for wards that are wholly or partly contained within the area.

14.7 The political balance requirements do not apply to such Cabinet appointments.

14.8 Access to Information

The Access to Information Procedure Rules apply to Joint Committees in a similar manner to local authority meetings at Council Committees. If all members of a joint committee are members of the executive or Cabinet in each of the participating authorities, then the access to information regime is the same as that applied to the Cabinet. If the Joint Committee contains Members who are not on the executive or Cabinet of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 (as amended) will apply.

14.9 Delegation to and from other local authorities

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

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

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

14.10 Contracting out

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

- functions which may be exercised by an officer, and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994.

- under contracting arrangements, where the contractor acts as the Council's agent under usual contracting principles.

- For non-executive functions the Authority may contract out in the same way.

14.11 Joint Committees

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

- Beamish Museum Stakeholder Group
- North East Purchasing Organisation (NEPO)
- South Tyne and Wear Waste Management Committee
- Tyne and Wear Archives and Museums Strategic Board
- Tyne and Wear Trading Standards Joint Committee
- Border to Coast Pensions Partnership Limited ("BCPP") Joint Committee

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 15 - OFFICERS

15.1 Management structure

15.1.1 General

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

15.1.2 Chief Officers

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

Chief Executive - duties, functions and areas of responsibility include corporate management and operational responsibility including overall management responsibility for all Officers. To act as Head of the Paid Service.

Director of Business and Resources - duties, functions and areas of responsibility include Audit, Customer Services, Cultural Services, Digital and ICT Services, Finance, Human Resources, Pensions, Revenues and Benefits, Risk and Insurance. To act as Section 151 Officer.

Director of Regeneration and Environment - duties, functions and areas of responsibility include Area Management, Asset Management, Economic Regeneration, Transport and Highways, Economic Growth and Environment Services

Director of Adult Social Services and Commissioning - duties, functions and areas of responsibility include Adult Social Care, Integrated Community Services, Safeguarding Adults Unit, Targeted Review and Adult Mental Health and Learning Disabilities

Director of Children's Services - duties, functions and areas of responsibility include Children Centres, Children Social Care, Fostering and Adoption, Schools and Out of School Network, Services for Young People and Youth Offending Service

Director of Public Health – duties, functions and areas of responsibility include improving the overall health and wellbeing of the population, reducing health inequalities, securing the provision of Public Health services, assuring health protection arrangements for the population, Public Health workforce development, and Public Health knowledge, research and intelligence

Director of Governance and Corporate Affairs - duties, functions and areas of responsibility include to act as Statutory Monitoring Officer, Data Protection Officer, Regional and National relations, Legal, Elections, Democracy and Registration, Performance and Change Management, Policy and Insight and Engagement, Marketing and Communications

15.1.3 Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will designate the following posts as shown: -

Post	Designation	Deputy
Chief Executive	Head of Paid Service	N/A
Director of Governance and Corporate Affairs	Monitoring Officer	Deputy Monitoring Officers (x2) – Corporate Lead, Legal and Governance and Deputy Monitoring Officer
Director of Business and Resources	Section 151 Officer (Chief Finance Officer)	Senior Manager Finance Service

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

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 16 - DECISION MAKING

16.1 Responsibility for decision making

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

16.2 Types of decision

There are different types of decision taken in the Council's name. Some decisions can only be taken by the Full Council, and these are listed. Other decisions, referred to as executive decisions, can be taken by the Cabinet or Officers of the Council.

16.3 Key decisions

Some decisions are referred to as "key decisions". These are decisions which are:

a) likely to result in the Council incurring expenditure or making savings which will have a significant impact on a particular area of the Council's budget, resulting in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates. The Council has decided that any decision involving expenditure in excess of £250,000 (excluding any decisions relating to investment of Council monies, or borrowing, undertaken as part of Treasury Management procedures or the purchase or sale of an investment or other transaction on behalf of the Tyne and Wear Pension Fund), will be a key decision; and/or

b) likely to be significant in the way in which they affect those people living and/or working in an area that in size is equivalent to two or more of the electoral wards in South Tyneside.

The law requires the Council to give 28 days' notice of those decisions that are considered to be key decisions. A key decision can only be made in accordance with the requirements of the Executive Procedure Rules set out in Part D Section 2 of this Constitution.

16.4 Decision making by the full Council

The Council meeting will follow the Council Procedures Rules set out in Part D Section 1 of this Constitution when considering any matter.

16.5 Decision making by the Leader or Cabinet

The Leader/Cabinet will follow the Executive Procedure Rules set out in Part D Section 2 of this Constitution when considering any matter.

16.6 Decision making by Scrutiny Committees

Scrutiny Committees will follow the Scrutiny Procedures Rules set out in Part D Section 3 of this Constitution when considering any matter.

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

Subject to Article 16.8 below other Council Committees and Sub-Committees will follow the Council Procedures Rules set out in Part D of this Constitution as apply to them.

16.8 Decision making by Council bodies acting as tribunals

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

16.9 Decision making by officers

All decisions taken by Officers under the Council's Officer Delegation Scheme will be taken in accordance with the principles set out in this Article.

16.10 Record of decisions

All decisions of the Council and its committees and sub-committees; the Cabinet and any committee or sub-committee of Cabinet; individual Cabinet Members (including the Leader) exercising delegated powers; and any Officers exercising delegated powers will be recorded in accordance Access to Information Procedure Rules in Part D Section 4 of this Constitution.

16.11 Principles of decision making

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

a) Proportionality (i.e., the action must be proportionate to the desired outcome). For example, the level of resources which are deployed to implement a decision should be proportionate to the likely impact of that decision.

b) Consideration of professional advice from Officers - This does not mean that Officer advice must always be followed. However, where advice has been offered and it is not followed the reason for not following the professional advice must be justified and recorded.

c) Due consultation - It is expected that consultation will form part of the Council's decision-making process. This does not mean that consultation must take place

on every decision. The level of consultation required will be appropriate to the nature of the matter under consideration. The views of those likely to be affected by a decision should be sought wherever possible.

d) Consideration of the legal and financial implications - This means that the legal consequences and financial implications of any decision must be considered and recorded.

e) A presumption in favour of openness - The process through which all decisions are taken must reflect the Council's commitment to open government and the Access to Information Rules of Procedure.

f) Consideration of available options and outlining reasons for decisions - Decision makers should ensure that they are able to consider all reasonable and available options in respect of any decision they are to make. In doing so they must clearly explain why they have chosen one particular option and give reasons for rejecting others and this must be included in the formal record of their decision

g) Respect for human rights - All decisions must demonstrate that consideration has been given to any human rights implications under the Human Rights Act 1998 and follow the principles of natural justice. Consideration must also be given to any other principles or duties in associated areas which may in future arise.

h) Equality and Diversity - Decision makers must have regard to the likely effect of the decision on individuals depending on age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation in accordance with the equality duty placed on public bodies by the Equalities Act 2010.

i) Crime and Disorder - Decision makers must have regard to the likely impact of the decision on crime and disorder in the area, including anti-social and other behaviour adversely affecting the local environment and the misuse of drugs, alcohol and other substances in its area in accordance with the duty placed on the Authority by the Crime and Disorder Act 1998.

j) Environment and Sustainability -Consideration must be given to whether the decision will contribute to sustainable development i.e., development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

k) Risk Management - Decision makers must ensure the Council's risk management processes have been applied to the matter and that any risks have been documented and will be appropriately managed.

l) Purposes of the Constitution - Decision makers should have regard to the purposes of the Constitution set out in Article 1.

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 17 - REVIEW AND REVISION OF THE CONSTITUTION

17.1 Monitoring and review of the Constitution by the Monitoring Officer

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

a) observe meetings of different parts of the Council's structure.

b) undertake an audit trail of a sample of decisions.

c) record and analyse issues raised with him/her by the Leader, Councillors, Officers, the public and other relevant stakeholders; and

d) compare practices in South Tyneside Council with those in other comparable Authorities, or national examples of best practice.

17.2 The Constitution will be reviewed at least annually.

17.3 Changes to the constitution Minor Amendments

The Monitoring Officer shall be responsible for keeping this document up to date and shall be authorised, in consultation with the Leader of the Council, to make minor revisions or amendments as and when necessary.

17.4 Approval

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

17.5 Change from a Leader and Cabinet form of Executive Arrangements to a mayoral form of executive or to alternative arrangements

17.5.1 If a petition of more than 5% of registered electors is received, or a resolution of Council is passed requesting a referendum to another form of executive or alternative arrangements, the Council must draw up proposals and must hold a binding referendum in accordance with legislation.

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

PART B – ARTICLES OF THE CONSTITUTION

ARTICLE 18 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

18.1 Suspension of the Constitution

The Articles of this Constitution cannot be suspended. However, some rules may be suspended but only by Full Council to the extent permitted within those rules and the law.

18.2 Procedure to suspend

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

18.3 Rules capable of suspension

18.3.1 In respect of business at Council meetings the Rules set out in Part D of this Constitution, may be suspended, save that the Cabinet or any of the Council's Committees with delegated authority for agreeing contracts or a Chief Officer may waive provisions for specific contracts as provided for in the Procurement Procedure Rules in Part D Section 6.

18.3.2 In addition, the mandatory standing orders relating to the recording of an individual vote and no requirement to sign minutes at extraordinary meetings cannot be suspended.

18.3.3 The rules can only be suspended for the duration of the meeting at which they have been suspended.

18.4 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution as set out in Article 1. In giving any ruling the Mayor will take account of advice given by the Council's Director of Governance and Corporate Affairs (designated Monitoring Officer) or Corporate Lead, Legal and Governance.

18.5 Publication

18.5.1 The Monitoring Officer will ensure that each Member of the Council has access to an electronic version of this Constitution when it is adopted and will ensure that all new Elected Members are given access to the same as soon as possible after their election.

18.5.2 Elected Members will be provided with updates as appropriate.

18.5.3 The Monitoring Officer will ensure that copies of the Constitution are available for inspection at the Council's Town Halls at South Shields and Jarrow and public libraries in the Borough.

18.5.4 The Constitution will be available on the Council's website.

18.5.5 Copies of the Constitution can be purchased by members of the local press and the public on payment of a reasonable fee. However, in order to reach all our residents, the Council will seek to make effective use of accessible communication formats (also known as alternative formats) where required and will seek to produce this Constitution in an accessible format, free of charge, where required.

PART C

RESPONSIBILITY FOR FUNCTIONS

PART C – RESPONSIBILITY OF FUNCTIONS

1. Introduction

1.1 This part of the Constitution sets out which parts of the Council are responsible for carrying out particular functions.

1.2 Under the Local Government Act 2000 and subsequent regulations, the Council's functions are either:

a) the responsibility of the Full Council and/or its committees and subcommittees; or

b) the responsibility of the Executive (i.e., the Cabinet, Cabinet committees or individual members of the Cabinet); or

c) "local choice" functions (i.e., where, under the legislation, the Council is free to choose whether the function is the responsibility of the Council or the Executive).

1.3 Some Council functions and Executive functions may be delegated to officers.

1.4 The following paragraphs and associated parts describe which functions are the responsibility of the Council and/or its Committees and Sub-committees and which functions are the responsibility of the Cabinet, Cabinet committees or individual members of the Cabinet. They also set out which functions have been delegated to officers.

1.5 This part of the Constitution will be reviewed yearly, as part of the annual review of the Constitution, to ensure it is up to date. The version available on the Council's website will be updated as new legislation comes into force.

2. Responsibility for 'Local Choice' Functions

2.1 "Local Choice" functions have been allocated to the Executive or Council as indicated in Article 4. Where the function is a Council function the committee and/or sub-committee responsible for the function is indicated. Where the function is delegated to an officer this is indicated in Part 3 Annex A.

3. Responsibility for Council Functions

3.1 The Local Authority (Functions and Responsibilities) (England) Regulations 2000 specify which functions must not be the responsibility of the executive.

3.2 Some functions can only be exercised by Full Council. These are set out in Article 4 of the Constitution.

3.3 Functions that are the responsibility of the Council or are delegated to committees and sub-committees of the Council are set out in Section 1 of Council Procedure Rules in Part D of the Constitution.

3.4 Where functions are the responsibility of a committee these are also contained within the terms of reference of committees detailed in Articles 9 – 14. Where functions have been delegated to officers these are included in the Officer Delegation Scheme.

4. Responsibility for Executive Functions

4.1 All other functions that are not specified as Council functions under the regulations or specified under other legislation are the responsibility of the Executive. The functions of the Leader of the Council, the Deputy Leader and the Cabinet as a body are set out in Articles 6 and 7 of the Constitution. Responsibility for the exercise of particular Cabinet functions can be allocated to individual Members of the Cabinet, officers or through joint arrangements.

4.2 Part D Section 2 lists the current Cabinet portfolios and also includes the Cabinet member delegation scheme, and the functions of any Cabinet Committees. Where executive functions are delegated to Officers these are set out in the Officer Delegation scheme.

Section 1- Scheme of Delegations

This section explains the powers which the Council and the Leader have decided to delegate to the Chief Executive and Directors and others authorised to act on their behalf. It also explains the restrictions on those powers and the consultation requirements

Section 2 – Proper Officer Roles

The Proper Officer are officers for all purposes relating to the functions for which they are specified to be responsible.

Section 3 - Officer Delegation Scheme and List of Authorised Officers

The Officer Delegation Scheme sets out delegations to officers in relation to both executive and non-executive functions.

Part 4 - Bodies Outside of the Authority

This part sets out information on the external bodies and organisations the Council appoints Members and officers to.

PART C – RESPONSIBILITY OF FUNCTIONS

SECTION 1 - SCHEME OF DELEGATION

INTRODUCTION

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

1.2 Section 2 of this Part C of the Constitution contains a list of Proper Officers who have been appointed by the Council for particular purposes.

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

SECTION 1

A: INTERPRETING THE SCHEME

Meaning of Directors

1. The reference to Directors in this Scheme means the following officers: -

Director Business of and Resources
Director Regeneration of and Environment
Director of Public Health
Director of Children's Services
Director of Adult Social Services and Commissioning
Director of Governance and Corporate Affairs.

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

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

Extent of powers delegated

4. This Scheme is intended to make sure that the Chief Executive and Directors, other officers authorised to act on their behalf, and Proper Officers have all the powers which they need to carry out the functions for which they are responsible. The functions for which the Chief Executive and Directors are responsible are described in the Articles of the Constitution (Part B – Article 15).

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

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

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

Meaning of non-executive and executive functions

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

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

Delegation of non-executive functions

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

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

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

Article 4 (Functions of the Council).
Article 9 (Functions of Regulatory and other Committees).
Article 10 (Pensions Committee)
Article 11 (Community Area Forums)
Article 12 (Standards Committee)
Article 13 (Health and Wellbeing Board)
Article 14 (Joint Arrangements)

Delegation by the Leader of Executive Functions

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

13. The Chief Executive and Directors have delegated powers by this Scheme to carry out executive functions on behalf of the Leader, or anybody or person(s) to whom the Leader has delegated such functions, subject to the requirements and restrictions set out in the Scheme.

Urgent action powers where powers not normally delegated to officers

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

B: THE DELEGATIONS

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

Delegation - General

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

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

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

- managing their budgets.
- incurring expenditure which is within their approved budget.
- inviting and accepting tenders, entering into contracts, and procuring supplies, works and services which are required to assist in performing their functions, whether from inside or outside the Council, where the contract value does not exceed £250,000, with the exception of the Tyne and Wear Pension Fund where no financial limit applies.
- taking urgent action where they would normally require authority from the Leader, Cabinet, a Committee of Cabinet or a Committee of the Council in accordance with paragraphs 18 and 19 below.
- taking action in relation to an executive function for which provision is not made in this Scheme of Delegations after consultation with the Leader of the Council/Deputy Leader.
- dealing with issues concerning land in accordance with paragraphs 20 to 23 below.

- dealing with employee issues in accordance with paragraph 24 to 26 below.

- dealing with legal matters in accordance with paragraphs 27 to 30 below.

- any other matters which they are required to do in order to perform the functions for which they are responsible subject to the overall restrictions set out or referred to in this Scheme.

Delegated powers - Urgent Action

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

19. The Chief Executive may take emergency action in respect of matters which are normally decided by the Leader or the Council, after consultation in the latter case with the Leader or Deputy Leader, and subject to Rule 3 of the Budget and Policy Framework Procedure Rules (Part D Section 5).

Delegations – Land Matters

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

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

22. The Director of Regeneration and Environment is responsible for negotiating terms and dealing with the tendering procedures, including accepting tenders up to a value of £250,000, for the acquisition or disposal of interests in land. The Director of Regeneration and Environment will consult with the Lead Member Resources and Innovation before making any decision to dispose of any land by way of sale.

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

Delegations – Employee Matters

24. The Director of Business and Resources is responsible for specifying corporate guidelines which are to be followed by the Chief Executive and Directors in dealing with matters concerning employees. The guidelines are contained or referred to in the Council's Human Resources Manual.

25. Where it is proposed that an officer of Head of Service level or above who is leaving the service of the Council should receive an ex gratia payment, any such payment is subject to the approval of the Leader of the Council (or the Deputy Leader or the Lead Member Resources and Innovation if there is a conflict of interest) but the Leader of the Council and the Lead Member Resources and Innovation must always be advised and informed accordingly.

26. The Chief Executive and Directors have delegated powers to deal with the following matters concerning the employees for whom they are responsible, subject to complying with the Human Resources Manual and subject to their actions being within their approved budget: -

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

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

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

Delegation - Legal Matters

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

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

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

30. The Chief Executive and Directors may implement and enforce Byelaws.

Proper Officers

31. A list of Proper Officers is attached in Section 2 to this Scheme. These officers are the proper officers for all purposes relating to the functions for which they are specified to be responsible.

32. Proper Officers have the same delegated powers as the Chief Executive and Directors to the extent that this is necessary to carry out the functions for which they are responsible.

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

Delegated Powers to Officers other than the Chief Executive and Directors

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

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

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

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

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

Accountability of the Chief Executive and Directors for Delegated Decisions

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

Unplanned Absence

40. If a Director is absent on an unplanned basis from the workplace for more than 5 working days, the Chief Executive (acting in consultation with the Leader of the Council) has power to nominate another Director or Head of Service or Corporate Lead to act in his or her place during the period of the absence. The Chief Executive's nomination must be in writing addressed to the nominated Director or Head of Service or Corporate Lead and copied to the absent Director and the Monitoring Officer (or Deputy Monitoring Officer if appropriate). If the Chief Executive is absent on an unplanned basis from the workplace for more than 5 working days, the Leader of the Council (acting in consultation with the Deputy Leader of the Council) may nominate a Director to act in his or her place during the period of the absence.

Allocation of responsibility for functions to a Director

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

Members Attendances at Conferences

42. If the Leader and Deputy Leader are not available to do so the Chief Executive and Directors may approve Member attendance at conferences, seminars and similar events in consultation with the appropriate Lead Member in accordance with Financial Procedure Rules.

C: RESTRICTIONS ON DELEGATIONS TO OFFICERS

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

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

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

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

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

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

D: CONSULTATION

Other Officers

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

Cabinet Members & Chair/ Vice-Chairpersons

48. If the Chief Executive or Directors consider that a decision which they propose to take under delegated powers has significant policy, service or operational

implications, or is politically sensitive, they must consult with the Leader or Deputy Leader, or with the appropriate Cabinet Member(s), Committee Chairperson and Vice-Chairperson before exercising the delegated powers.

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

Protocol on Member/ Officer Relations

50. The Chief Executive and Directors are responsible, when exercising delegated powers, for making sure that Members are consulted in accordance with the Protocol on Member/Officer Relations (Part E – Section 4).

E: SCRUTINY

51. The Chief Executive and Directors are responsible under paragraph 46 above for making sure that each officer exercising delegated powers records decisions taken. In addition, a formal report in a format and at intervals to be determined by agreement of the Scrutiny Committee Chairperson, Leader or Cabinet Member and Director should be presented to the appropriate Scrutiny Committee in each cycle or as otherwise agreed.

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

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

54. Key decisions, as defined in Article 16 of the Constitution, which are taken by the Chief Executive and Directors must follow the same procedure as the requirements in this Constitution for key decisions by members.

PART C – RESPONSIBILITY OF FUNCTIONS

SECTION 2 - PROPER OFFICER ROLES

1. Chief Executive

1.1 The Chief Executive will be the Council's Head of Paid Service.

1.2 The Chief Executive's responsibility is to the Council as a whole and not to any political group.

1.3 The Chief Executive as Head of Paid Service is expected to work closely with the Leader of the Council and Cabinet. This is subject to maintaining his/her position as politically neutral.

1.4 The political neutrality of the Chief Executive must be respected by everyone. S/he should not be asked to play any role or undertake any task which is likely to prejudice that neutrality or make it difficult for him/her to continue to serve successive administrations of whatever political persuasion.

1.5 The Chief Executive is able to give advice on a confidential basis about procedural matters to any Elected Member.

1.6 The following principles govern the relationship between the Chief Executive and political groups:

a) It is proper for the Chief Executive to develop a working relationship with all political groups on the Council.

b) The Chief Executive is free to provide information and answer procedural inquiries to Elected Members of any group. S/he will not advise as to the policies which any group should pursue.

c) The Chief Executive will draw the attention of the Cabinet to any case where consideration should, in his/her opinion, be given to affording information, consultation, or representation to the opposition groups.

1.7 When the Chief Executive attends a meeting of any political group, s/he will ensure that the part s/he plays in the proceedings is consistent with his/her political neutrality.

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

1.9 The Chief Executive will also be responsible for the following:

a) Acting as Registration Officer for the Parliamentary constituencies of Jarrow and South Shields.

b) Acting as the Acting Returning Officer for the Parliamentary constituencies of Jarrow and South Shields.

c) Acting as the Returning Officer for Local Authority Elections in the Borough.

d) Keeping the Register of Electors

e) Signature of Summonses to Council meetings.

f) Any duties arising from a reference in a statutory provision before 1972 to the "Clerk" of the Council

g) Witness and receipt of declarations of acceptance of office

2. Director of Business and Resources

2.1 The Director of Business and Resources will be: -

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

2.1.2 the senior manager of the Assurance and Risk Manager and is responsible for ensuring the independence of the Internal Audit service, monitoring the quality of the Audit work produced and securing access by Internal Audit to all information necessary for them to carry out their audit functions. The current Terms of Reference of the Internal Audit service are set out at Annex 1 to this part of the Constitution. All officers and members of the Council are required to facilitate the work of the internal Audit service in accordance with their Terms of Reference, as amended from time to time by the Audit Committee.

2.1.3 The Director of Business and Resources will be the Council's Chief Finance Officer for the purposes of section 151 of the Local Government Act 1972. The Chief Finance Officer will be responsible for the following: -

a) Ensuring lawfulness and financial prudence of decision making –

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

Under section 114 of the Local Government Finance Act 1988 the Chief Finance Officer will make a report under this section if it appears to him / her that the expenditure of the authority (including expenditure it proposes to incur) is likely to exceed the resources available to it to meet that expenditure. This has the effect of prohibiting any new expenditure save for the provision of statutory services and safeguarding vulnerable people. The full Council must meet within 21 days of the issue of such a notice to discuss the implications.

b) Administration of financial affairs –

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

c) Contributing to corporate management –

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

d) Providing Advice –

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

e) Providing financial information –

The Chief Finance Officer will ensure that financial information is provided to councillors in accordance with their rights of access and, where appropriate, to the media, members of the public and the community, subject to the rules of the Council.

3. Deputy Chief Finance Officer

The Senior Manager Finance Service will be the Council's Deputy Chief Finance Officer for the purposes of Section 151 of the Local Government Act 1972.

4. Children and Adults

4.1 The Director Children's Services is appointed Director of Children's Services pursuant to section 18 of the Children Act 2004.

4.2 The Director Adults Social Care and Commissioning is appointed as the Director of Adult Social Services pursuant to section 6 of the Local Authority Social Services Act 1970.

4.3 The Director of Children's Services and the Director of Adult Social Care and Commissioning are designated as Caldicott Guardians.

5. Director of Public Health (DPH)

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

5.1.1 Writing the Annual Report on the health of the local population.

5.1.2 All of the local authority's duties to take steps to improve public health.

5.1.3 Any of the Secretary of State's public health protection or health improvement functions.

5.1.4 Exercising the local authority's functions in planning for, and responding to, emergencies that present a risk to public health.

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

5.1.6 Such other public health functions as the Secretary of State specifies in regulations.

5.1.7 Organising the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.

5.1.8 Sitting on the local Health and Wellbeing Board.

5.1.9 Undertaking a Faculty of Public Health continuing professional development programme maintain a portfolio of training that demonstrates competence with all aspects of public health accepted by the UK Public Health Register, and undertaking statutory annual appraisal and revalidation.

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

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

5.1.12 Appointment under Local Government Act 1972, Section 270 (3) as amended and Public Health (Control of Disease) Act 1984, Section 74 as amended with regards to receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.

6. Director of Governance and Corporate Affairs

6.1 The Director of Governance and Corporate Affairs will be responsible for the following:

6.1.1 Keeping the Members Register of Disclosable Pecuniary Interests.

6.1.2 Keeping the Employees Register of Interests.

6.1.3 Keeping the Members Register of Gifts and Hospitality.

6.1.4 Receipt of Members' resignations from office (together or in place of the Corporate Lead, Legal and Governance).

6.1.5 Receipt of Notices regarding the address to which summonses to meetings is to be sent.

6.1.6 Publication of Petition Number for a Referendum for Elected Mayor.

6.1.7 Access to information responsibilities under the Local Government Act 2000.

6.1.8 Receipt of Notices concerning the formation of political groups and Notices from members of joining established political groups.

6.1.9 Will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

7. Corporate Lead, Legal & Governance

7.1 The Corporate Lead, Legal and Governance will be responsible for the following: -

7.1.1 Local Registration under the Local Land Charges Act.

7.1.2 The sealing of documents requiring the Council's Common Corporate Seal and the authorisation of other officers to seal documents.

7.1.3 Certification of photographic copies of documents.

7.1.4 Authentication of documents.

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

7.1.6 Deputise for the Chief Executive in respect of the authorisation of applications under the Regulation of Investigatory Powers Act 2000 where a vulnerable individual or juvenile is to be used as a covert source

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

7.1.8 Receipt of Members' resignations from office (together or in place of the Director of Governance and Corporate Affairs).

7.1.9 Receipt of applications for Justices Licences under the Licensing Acts.

7.1.10 Deposit of Documents for public inspection.

7.1.11 Births Marriages and Deaths Registration Services.

7.1.12 The Corporate Lead, Legal and Governance is the Council's Senior Responsible Officer for the purpose of The Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016; and

7.1.13 The Corporate Lead, Legal and Governance will contribute to the corporate management of the Council in particular through the provision of legal advice.

8. Monitoring Officer

8.1 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service. The Director of Governance and Corporate Affairs is the Council's designated Monitoring Officer for the purposes of section 5 of the Local Government and Housing Act 1989.

8.2 The Monitoring Officer will be responsible for the following: -

a) Maintaining the Constitution

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

b) Ensuring lawfulness and fairness of decision making

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

c) Supporting the Standards Committee

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

d) Conducting investigations

The Monitoring Officer will be the Proper Officer for receipt and acknowledgement of complaints of failure to comply with the Members' Code of Conduct under the Council's adopted arrangements.

The Monitoring Officer will either conduct or arrange for investigations to be conducted into alleged breaches of the Members' Code of Conduct, and as appropriate, submit such reports to the Standards Committee in accordance with the Council's adopted arrangements.

The Monitoring Officer will seek to encourage informal resolution of such complaints in accordance with the Council's adopted arrangements.

The Monitoring Officer will, where informal/local resolution of a complaint is unsuccessful and having consulted as appropriate with the Chair of Standards

Committee and the Independent Person, refer the Investigating Officer's report to the Standards Committee/Sub-Committee for a formal hearing and determination.

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

e) Advising whether Cabinet decisions are within the Budget and Policy Framework

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

f) Providing advice

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

g) Contributing to corporate management

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

The Monitoring Officer will be the Deputy Proper Officer for the functions allocated to the Head of Paid Service in 1.9 (a) – 1.9 (h) above.

The Monitoring Officer will be the Proper Officer for Receipt of Members' resignations from office (together with or instead of the Corporate Lead Legal and Governance.

The Monitoring Officer will be Deputy Registration officer for the parliamentary constituencies of South Shields and Jarrow (Register of Electors)

8.3 The Monitoring Officer will appoint two Deputy Monitoring Officers.

8.4 The Monitoring Officer will be the Deputy Returning Officer for local authority elections.

9. Assurance and Risk Manager

9.1. The Assurance and Risk Manager will ensure that effective procedures are in place to promptly investigate any suspected or actual fraud, irregularity or corruption.

9.2. The Assurance and Risk Manager will ensure that internal auditors comply with Public Sector Internal Audit Standards.

9.3. The Assurance and Risk Manager will ensure that there is effective liaison between external and internal auditors.

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

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

11. Conduct

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

12. Employment

12.1. The use of the title "officers" in the Constitution means all of the employees of the Council and includes those staff who are engaged in any short term, agency or other non-employed capacity.

12.2. The Council will engage such staff (referred to as officers) as it considers necessary to carry out its functions. The Head of Paid Service will determine and publicise a description of the overall management and operational structure of the Council showing the management structure and deployment of officers. (See Part A - Corporate Group Structure Chart)

12.3. The Council is required to appoint a number of statutory officers by law. All councillors have equal access to all statutory officers. The three key statutory officers are the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

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

13. Operations Manager - Development Management

The Operations Manager - Development Management will be responsible for the determination of all planning matters not falling within the remit of the Planning Committee.

14. Traffic Manager

The Council must appoint a Traffic Manager under S.17 of the Traffic Management Act 2004. That person's responsibility is essentially to discharge the Council's Network Management Duty under the 2004 Act. The Traffic Manager is not a post that involves responsibility for all day-to-day highways and traffic related functions – it is a strategic traffic management responsibility. The Head of Infrastructure and Transport is the Council's appointed Traffic Manager.

15. Corporate Lead Human Resources

The Corporate Lead Human Resources will be responsible for the retention of the statutory list of politically restricted posts under the Local Government and Housing Act 1989 and the making of any subsequent modification to the list. The Corporate Lead Human Resources will be responsible for the Proper Officer functions referred to in the Employment Procedure Rules in Part D Section 7 of this Constitution and relating to the appointment and dismissal of chief officers and deputy chief officers. The Corporate Lead Human Resources will be responsible for ensuring that the Council fulfils its commitment as an employer in respect of the Ministry of Defence Armed Forces Employer Recognition Scheme.

16. Statutory Scrutiny Officer

Under 9FB of the Local Government Act 2000, the Council will designate a Strategy and Democracy Officer as the Council's Statutory Scrutiny Officer.

17. Channel Panels

Under its statutory duties set out in Section 36 and 38 of the Counter Terrorism and Security Act 2015 and the Counter-Terrorism and Border Security Act 2019, the Council will lead Channel Panels for South Tyneside covering the needs of adults and children. It will provide a Chair and Deputy Chair, appointed by the Director of Children Services. These will be senior officers considered to have the required skills and experience and the appropriate authority to facilitate the engagement of multi-agency partners and the direction of their resources.

The Panel will develop a support plan for individuals who are adopted as Channel cases because they are vulnerable to being drawn into terrorism. It will ensure accurate records are kept detailing the support plan, agreed actions and decision-making. Governance arrangements for Channel will be through the statutory multi-agency South Tyneside Community Safety Partnership.

PART C SECTION 3 - LIST OF AUTHORISED OFFICERS

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

NOTE: The employees listed below are nominated to take appropriate decisions on behalf of the Chief Executive or their respective Director as authorised by them in connection with the functions referred to in the Council's Delegation Scheme.

Business and Resources

Heads of Service and Corporate Leads
Head of Pensions
Corporate Lead Culture and Leisure Services
Corporate Lead Human Resources
Corporate Lead Digital and ICT
Senior Manager Finance Service

Senior Officers
Culture and Leisure Services
Corporate Lead – Culture and Leisure Services
Leisure Facilities Manager
Sport and Leisure Programme Officer
Leisure Development Officer
Culture and Libraries Manager
Principal Librarian
Community Librarian

Digital and ICT Services
Application Support Manager
Business Change and Delivery Manager
Development and Digital Manager
Enterprise Architect
Service Delivery Manager

Finance
Senior Manager Finance Service
Strategic Finance Manager
Technical Finance Lead

Human Resources
Occupational Health and Safety Manager
Senior HR Manager

Internal Audit
Assurance and Risk Manager

Pensions
Communications Team Manager
Pension Fund Finance Manager
Operations Team Manager
Principal Investment Manager
Senior Solicitor Pension Team
Technical Support Manager
Principal Governance and Funding Manager
Governance and Funding Manager

Procurement
Procurement Lead
P2P Manager
Senior Category Manager

Revenue and Benefits
Revenues, Benefits and Customer Service Lead
Revenues, Benefits and Customer Service Operations Manager

Children, Adults and Health (combined here for presentational ease only)

Heads of Service and Corporate Leads
Head of Learning and Early Help
Children's Service Manager
Public Health Service Lead
Head of Integrated Commissioning
Adult Social Care Lead
Community Services Lead

Senior Officers

Adult Social Care
ASC Service Lead
Community Services Service Lead
ASC Operations Service Manager
Practice and Safeguarding Service Manager / PSW
Workforce and Change Manager
Practice and Assurance Manager
Community Services Manager
Accommodation Delivery Manager
Learning Disability and Mental Health Manager / AMHP Lead
Head of Integrated Commissioning Service
Service Manager – Early help

Integrated Commissioning
Joint Commissioning Lead
Joint Market Management and Quality Lead
Business Manager South Tyneside Safeguarding Children and Adults Partnership

Children and Families Social Care
Service Lead for Children (Interim)
Service Manager Fostering/Connected Carers (Interim)
Service Manager – Supporting and Strengthening Families
Service Manager – Contact and Referral and OOHs
Service Manager – Looked After Children and Care Leavers
Principal Social Worker
Quality Assurance Lead

Learning and Early Help
Children's Safeguarding Manager
Service Manager Early Help 0-11
Service Manager Early Help 11-19
Service Manager Education and Standards
Service Manager SEN, Access and Inclusion
Manager Children's Centres and Childcare
Principal Educational Psychologist
Catering Services Manager
Head of Virtual School, LAC and EMTRAS
ICT in Schools Manager
Governor Support and School Admissions Manager

Public Health
Public Health Strategic Manager
Knowledge and Intelligence Lead

Regeneration and Environment

Heads of Service and Corporate Leads
Head of Asset Management
Head of Environment
Head of Infrastructure and Transport
Head of Regeneration
Corporate Lead Town Centres & Foreshore
Head of Economic Growth
Highways Asset Management
Network Management Services

Senior Officers

Asset Management
Senior Manager Asset Management
Property Services Manager
Building & Compliance Manager
Construction & Technical Services Manager
Corporate Facilities Manager
Bereavement Services Manager
Design & Print Team Leader

Business Investment
Business Investment Manager

Environment
Corporate Lead Town Centres & Foreshore
Service Lead Community Protection
Service Lead Waste
Service Lead Fleet
Service lead Environmental Health
Service Lead Environmental Sustainability
Service Lead Building Control & Resilience
Operations Manager Trading Standards
Operations Manager Licensing
Waste Services Manager
Vehicle Workshop Controller
Operations Manager Environmental Sustainability x 2
Operations Manager Environmental health x 3
CCTV Manager

Housing and Planning
Senior Development Services Managers
Operations Manager – Development Management
Operations Manager – Housing Strategy
Operations Manager – Spatial Planning
Operations Manager – Transport Strategy
Senior Planning Officer x 3

Infrastructure and Transport
Construction Manager
Highways and Infrastructure Manager
Road Safety Manager
Parking Manager
Street Works Manager

Regeneration
Senior Regeneration Area Manager
Senior Regeneration Manager

Skills
Strategic Commissioning Manager

Governance and Corporate Affairs

Heads of Service and Corporate Leads
Corporate Lead, Engagement, Communications and Support Services
Corporate Lead, Legal and Governance
Corporate Lead Officer, Performance and Change Management
Corporate Lead Officer, Policy and Insight

Senior Managers

Legal Services
Deputy Monitoring Officer
Specialist Advisor Procurement
Principal Solicitor Litigation and Social Care
Principal Solicitor Development, Property and Procurement Team
Principal Solicitor Pension Team
Principal Legal Executive (x2)
Strategy and Democracy Officer
Elections Manager

Support Services
Business Services Manager
Information and Feedback Manager
Strategy and Democracy Officer
Senior Marketing Officer
Senior Press Officer

Performance and Change Management
Performance and Information Manager

PART C SECTION 3 - LIST OF AUTHORISED OFFICERS

SCHEDULE B List of Employees authorised by their Directors to appoint to appropriate posts under their control

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

Business and Resources

Digital and ICT Services
Digital and ICT Corporate lead
Enterprise Architect

Finance
Senior Manager Finance Service
Strategic Finance Manager
Technical Finance Manager

Human Resources
Corporate Lead HR Services
Senior HR Manager
Occupational Health and Safety Manager
HR Transformation and Advisory Manager

Internal Audit
Assurance and Risk Manager

Pensions
Head of Pensions
Communications Team Manager
Investment Manager
Operations Team Manager
Principal Investment Manager
Senior Solicitor Pension Team
Technical Support Manager
Principal Governance and Funding Manager
Governance and Funding Manager.

Procurement
Procurement Lead
Senior Category Manager
P2P Manager

Revenues and benefits
Revenues, Benefits and Customer Service Lead
Revenues, Benefits and Customer Service Operations manager
Revenues Team Leaders (x2)

Benefit Team Leaders (x3)
Income Team Leader
Customer Service Team Manager (x3)

Culture and Leisure Services
Corporate Lead – Culture and Leisure Services
Culture and Libraries Manager
Leisure Facilities Manager
Sport and Leisure Programme Officer
Culture and Libraries Manager
Principal Librarian
Community Librarian

Governance and Corporate Affairs

Legal Services
Corporate Lead, Legal and Governance
Deputy Monitoring Officer
Superintendent Registrar
Elections Manager

Support Services
Business Services Manager
Strategy and Democracy Officer
Marketing Officer Tourism
Information and Feedback Manager

Corporate
Corporate Lead Officer, Performance and Change Management
Corporate Lead Officer, Policy and Insight
Performance and Information Manager

Support Services
Corporate Lead, Engagement, Communications and Support Services
Business Services Manager
Information and Feedback Manager
Strategy and Democracy Officer
Senior Marketing Officer
Senior Press Officer

Regeneration and Environment

Construction Manager
Highways and Infrastructure Manager
Road Safety Manager
Contracts Manager (Building Cleaning)
Design Co-ordination Officer
Infrastructure Support Officer

Lighting Operations Officer
Lighting Technical Officer
Livability Designer
Livability Engineer
Markets Superintendent
Corporate Lead Town Centres & Foreshore
Service Lead Community Protection
Service Lead Waste
Service Lead Fleet
Service lead Environmental Health
Service Lead Environmental Sustainability
Service Lead Building Control & Resilience
Operations Manager Trading Standards
Operations Manager Licensing
Waste Services Manager
Vehicle Workshop Controller
Operations Manager Environmental Sustainability x 2
Operations Manager Environmental health x 3
CCTV Manager
Principal Information Services Project Development Officer
Project and Service Manager – Community Alarms
Facilities Officer (X2)
Facilities Officer (Senior)
Parks Development Officer
Play Officer
Resources and E-Services Co-ordinator
Staffing Officer
Young Persons Services Co-ordinator

Children, Adults and Health (combined here for presentational ease of reference)

Adult and Youth Training Manager
Adult Education Officer
Adult and Community Learning Officer
Area Managers (Catering)
Children's Education Support Manager (PLACE)
Family Learning Officer
Finance Officers
Independent Living Support Service Manager
Joint Planning & Partnership Development Officer
Office Manager
Operational Manager YJS
Service Lead Social Work Reform
Team Manager SSF
Team Manager Integrated Looked After Children
Early Response Team Manager
Out of School Learning Officer
Payroll Supervisor

Resources and E Co-ordinator
Student Support Officer
Team Manager, Children with Disabilities
Safeguarding Manager
Neighbourhood Manager
Help to Live and Home Manager
Home First Manager
Hospital Discharge Team Manger
Occupational Therapy Team Manager
Let's Talk Team Manager
Learning Disabilities Team Manager
AMHP Team Manager
Business Intelligence Manager
Project Manager
System Support Manager
Financial Assessments Manager
Regulated Services Manager
Community Equipment Services Manager
Accommodation Delivery Manger
Team Manager Technology and Independence Service
Day Opportunities Centre Manager
Governors Support and Admissions Manager
School Improvement Officer
Community Centre Managers
Information and Education Co-ordinator
Catering Manager

PART C SECTION 4 – BODIES OUTSIDE THE COUNCIL

1. Where an organisation or body is consultative, a forum for debate or for the promotion of a charitable object or something of a similar nature rather than a decision making or operational body, then it is known as a "non- executive outside body".

2. The appointment of Members or officers to non-executive outside bodies will be dealt with by the Full Council (except where they appointment is an Executive Appointment).

3. All remaining outside bodies and organisations are known as "executive outside bodies" and are referred to the Leader and Cabinet to appoint to. The function of these bodies would primarily be decision making or operational.

4. A list of the outside bodies is provided below with the number of places available to the Council.

Outside Body	Places
All Saints Charitable Incorporated Organisation	1
Arab Muslim Association	1
Arts Council England, North East Local Authority Forum	1
Association for Public Service Excellence (APSE)	2
Association of North East Councils Ltd Leaders and Elected Mayors Group	2
Association of North East Councils Ltd Collaborative Procurement Sub-Committee	1
Association of North East Councils Ltd North East Culture Partnership	1
Barnes Institute - Management Committee	1
Beamish Museum Ltd (Trustees)	1
Beamish Museum Stakeholder Group	1
Boldon Community Association - Management Committee	4
Centaurea Homes Limited Board Directors	3
Community Safety Partnership Board	2

Customs House Trust Board - Board of Directors	2
Dr. Triplett's Charity - Trustees	4
Edward Taylor Kelsey Trust	1
Environmental Protection UK	4
Groundwork South Tyneside and Newcastle Board of Directors	2
Hebburn Sea Cadet Corps	1
Hebburn Sports & Social Club - Management Committee	4
Housing Ventures Trust	1
Local Government Association Coastal Special Interest Group (SIG)	1
Local Government Association - General Assembly	4
Local Pension Board	1
Lukes Lane Community Centre	1
Merchant Navy Welfare Board	1
National Association of Councillors	2
National Association of Councillors - Northern Branch	3
Newcastle International Airport Local Authority Holding Company - Board of Directors	2
Newcastle Airport Consultative Committee	1
North East Combined Authority Leadership Board	2
North East Combined Authority Overview and Scrutiny Committee	4
North East Combined Authority Audit and Standards Committee	2
North East Combined Authority Economic Development Digital Advisory Board	2
North East Joint Transport Committee	2
North East Joint Transport Committee Overview and Scrutiny	4

North East Joint Transport Committee Audit Committee	2
North East Joint Transport Tyne and Wear Sub Committee	2
North East Local Enterprise Partnership Board	1
North East and North Cumbria Integrated Care System (ICS) Joint OCS	3
North East Purchasing Organisation (NEPO)	2
North East Regional Employers' Organisation	3
North East Regional Employers' Organisation (Executive Committee)	1
North East Region Joint Health Scrutiny Committee	1
North Eastern Sea Fisheries Committee	1
Northern Grid for Learning – Board Director	1
Northumbria Police & Crime Panel	2
Northumbria Regional Flood and Coastal Committee	2
Parking and Traffic Regulations Outside London	
Adjudication Joint Committee (PATROLAJC)	1
Primrose Community Association Charity	1
South Shields Guides Association	1
South Tyne and Wear Waste Management Committee	2
South Tyneside Adoption Panel	1
South Tyneside Blind Welfare Association	2
South Tyneside Citizens' Advice Bureau Management Committee	4
South Tyneside District Scout Council	1
South Tyneside Fostering Panel	1
South Tyneside Foundation Trust – Council Governors	1

South Tyneside Homes (Board of Directors)	4
South Tyneside Gymnastics and Wellbeing Centre Community Interest Company	1
South Tyneside Partnership Board	4
South Tyneside Partnership Board – Children & Families Board	1
South Tyneside Partnership Board Economic Regeneration Board	1
South Tyneside Partnership Board Cleaner, Greener Communities Board	4
South Tyneside Regional Equality Forum	5
South Tyneside Standing Advisory Council for Religious Education	2
The Industrial Communities Alliance	1
Tidy Britain Group - Going for Green - Regional Consultation	2
Tyne & Wear Building Preservation Trust Ltd	1
Tyne & Wear Fire & Rescue Authority	2
Tyne & Wear Archives and Museums Strategic Board	2
Tyne and Wear Local Access Forum	1
Tyne and Wear Trading Standards Joint Committee	5
Tyne Port Health Authority	3
Vision & Hearing Support Gateshead and South Tyneside	1
West Harton Educational Charity – Trustees	1
Whitburn Shores Board (Community Land Truest)	3
Women's Health in South Tyneside Management Committee	1
Workers Educational Association	1

School Governors

5. School Governors form one of the largest voluntary groups in the country, working as part of a team to support a school and the Head Teacher to decide the school's policy, help recruit staff and manage budgets. They are responsible for making sure the school provides a good quality education for all pupils. Raising educational standards in school is a key priority. This has the best chance of happening when there are high expectations of what pupils can achieve. Governors promote effective ways of teaching and learning when setting the school aims and policies.

6. Governing boards are accountable to parents, the local community and the Local Authority or the Trustees. Appointments are for three or usually for four years. The governing board's main role is to help raise pupils' standards of achievement. The Governing Board:

    - is accountable for the performance of the school to parents and the wider community
    - plans the school's future direction
    - selects the head teacher
    - makes decisions on the school's budget and staffing including the performance management policy
    - makes sure the agreed Curriculum is well taught
    - decides how the school can encourage pupils' moral and cultural development
    - makes sure the school provides for all pupils including those with special needs.

7. Governors are at the heart of how a school operates. It's important they get things right. How they do their job effects the interests of pupils, staff and the reputation of the school in the community. Governor's support and challenge head teachers by gathering views, asking questions and discussing what's best for the school. They are not there to rubber stamp decisions. They have to be prepared to give and take advice and must be loyal to decisions taken by the governing board as a whole. Governors must act within the law and take appropriate advice.

8. The appointment of Elected Members or Council Officers as a Governor of a Local Authority Governing Board will be dealt with as follows:

    - Governor Support Manager is advised of a vacancy on a Local Authority Governing Board
        - Governing Board provides any skills gap on their Board which they require to be considered in respect of any nomination from the Local Authority
          OR
        - Governing Board puts forward a nominee to be considered by the Local Authority with rationale.

- Governor Support Manager must advise the Leader of the Council of the above information
    - Leader of the Council provides details of a nomination for the governing board
        - Clerk presents the nomination to the Governing Board – if rejected then the reason is presented to the Leader of the Council

      OR
    - Leader of the Council approves the nomination from the Governing Board
- Governor Support Manager completes delegated decision with approval from Lead Member Children, Young People and Families and the Director of Children's Services.

9. With regards the re-appointment of a Local Authority Governor, the Governor Support Manager will advise the Leader of the Council with a request to re-appoint a Local Authority Governor on a Governing Board. If agreed, the Governor Support Manager will complete a delegated decision with approval from the Lead Member Children, Young People and Families and the Director of Children's Services.

PART D

RULES OF PROCEDURE

PART D- RULES OF PROCEDURE
SECTION 1 - COUNCIL PROCEDURE RULES

Procedure Rules which relate to Full Council

1. ANNUAL MEETING OF THE COUNCIL

1.1. Timing and Business

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. The Annual Meeting will ordinarily take place in May.

The annual meeting will:

1.1.1 elect a person to preside if the Mayor is not present.

1.1.2 elect the Mayor of Council.

1.1.3 elect the Deputy Mayor of Council.

1.1.4 approve the minutes of the last meeting.

1.1.5 receive any announcements from the Mayor and/or Chief Executive / Head of the Paid Service.

1.1.6 elect the Leader of the Council (if required).

1.1.7 be informed by the Leader of the composition and constitution of the Cabinet for the coming year, and the names of the Councillors the Leader has chosen to be Members of the Cabinet.

1.1.8 appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions.

1.1.9 approve a programme of ordinary meetings of the Council for the year; and

1.1.10 consider any other business set out in the notice convening the meeting and conduct any business reserved for Annual Council.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

1.2.1 decide which Committees to establish for the municipal year.

1.2.2 decide the size (including Substitute members, where appropriate) and terms of reference for those Committees.

1.2.3 decide the allocation of seats to political groups in accordance with the political balance rules.

1.2.4 receive nominations of Councillors to serve on each Committee and outside body; and

1.2.5 appoint to those Committees and outside bodies (including Substitute Members, where appropriate) except where appointment to those bodies has been delegated by the Council.

2. ORDINARY MEETINGS

2.1 The order of business at every meeting (apart from the Annual Meeting and the Budget setting meeting of Borough Council) will be as follows:

2.1.1 choosing a Member of the Council to chair the meeting if the Mayor and Deputy Mayor is absent;

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

2.1.3 apologies for absence.

2.1.4 minutes of the previous meeting.

2.1.5 receive any declarations of interest from Members.

2.1.6 any business which the Council must deal with by law.

2.1.7 any Mayor's announcements or communications.

2.1.8 any uncompleted business from the last Council meeting.

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

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

2.1.11 any questions asked under Rule 8. The questions must be in the order set out in Rule 8.16.

2.1.12 any petitions submitted under Rule 9; and

2.1.13 any notices of motions received under Rule 10 in the order received.

2.2 At ordinary meetings of Full Council, Council will only deal with business that is set out on the summons, unless the Mayor decides that a matter is urgent. If the Mayor decides that a matter is urgent, he or she will announce at the beginning of the meeting after apologies have been announced that an extra item is to be placed

before Council and will explain why the matter is so urgent. The reasons will be recorded in the minutes of the meeting.

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

2.3.1 by the Mayor with the Council's permission; or

2.3.2 by resolution passed on a motion moved and seconded. The motion will be moved and put without discussion and does not have to be in writing.

2.4 The Budget setting meeting will deal only with matters of budget setting and Council Tax and will not include items 2.1.11, 2.1.12 or 2.1.13 other than in relation to Budget setting.

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

3 EXTRAORDINARY MEETINGS

Calling extraordinary meetings

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

3.1.1 the Council by resolution.

3.1.2 the Mayor at any time.

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

3.1.4 the Monitoring Officer at any time.

3.1.5 any five Elected Members of the Council can ask the Mayor to call an extraordinary meeting of the Council at any time if they have a signed requisition presented to the Mayor. If the Mayor refuses to call a meeting or does not call one within seven days of receiving the request, then any five Elected Members of the Council can call the extraordinary meeting by leaving their request with the Office of the Chief Executive.

3.2 No item of business may be conducted at an extraordinary meeting of the Council other than that specified in the resolution, request or requisition which led to it being called.

4 APPOINTMENT OF THE MAYOR THE DEPUTY MAYOR AND THE LEADER

4.1 The Mayor will be appointed as the first item of business at the Annual Meeting. The Deputy Mayor will be appointed at the Annual Meeting immediately following

the appointment of the Mayor. Appointments under this Rule and Rule 4.2 will be by simple majority of the Elected Members present.

4.2 If both the Mayor and the Deputy Mayor are absent from a meeting the Councillors present must choose one of themselves to chair the meeting by simple majority of the Elected Members present.

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

4.4 If the Deputy Mayor takes any action under any legal provisions or Rules of Procedure, the Mayor must record why he or she is unable or unwilling to take action.

4.5 Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairperson of Committees and Sub-Committees. The person Chairing the Committee and Sub-Committee meetings can use the powers of the Mayor so far as appropriate to conduct the meeting of Committees and Sub-Committees.

4.6 The Leader of the Council will be elected at an Annual Meeting of the Council. The appointment of the Leader will be by simple majority of the Elected Members present. Once elected, the Leader's term of office will be for a four-year term, unless he/she retires as a Councillor or if at any earlier point he/she ceases to be a Councillor before the conclusion of the four-year term (See Article 6.3).

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

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

5 NOTICE OF AND SUMMONS TO MEETINGS

5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. Other than in exceptional circumstances, meetings of the Full Council will ordinarily commence at 6.00 pm.

5.2 At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her to every Elected Member of the Council by email or at their usual place of residence (or such other address as has been notified to the Chief Executive). The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available at that time.

5.3 Urgent reports on items of business may only be added to the agenda if the reasons for urgency can be sufficiently justified and the approval of the Mayor has

been given. The reasons for urgency will be recorded in the minutes of the meeting. The Mayor, or in his/her absence the Deputy Mayor, in conjunction with the Chief Executive, will determine the order of business.

6 QUORUM

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

6.2 A meeting of the Full Council cannot begin until a quorum is present. If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will be reconvened on another date.

6.3 If, during any meeting, the Mayor counts the number of Elected Members and declares that there is not a quorum present, the meeting will be postponed immediately. Any Member can tell the Mayor that there is not a quorum present.

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

7 DURATION OF MEETING AND THE GUILLOTINE

7.1 Duration of the meeting

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

7.1.2 Separate arrangements in relation to the duration of the meeting will be agreed by the Mayor and Group Leaders for the budget setting meeting at which the Council Tax is set to ensure that the legal requirements are complied with.

7.2 Motions and recommendations not dealt with

If there are other motions and recommendations on the agenda that remain to be dealt with at the end of the three-hour period (or two-hour period in the case of an Extraordinary Meeting) they will not be deemed to have been formally moved and seconded. These items will roll-forward to the next Ordinary meeting of Full Council.

7.3 Recorded vote

If a recorded vote is called for during this process it will be taken immediately (provided Rule 29.5 is met).

7.4 Motions which may be moved

During the process set out in Rules 7.1 - 7.3 above the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to

an appropriate body or individual for decision or report. Such motions must be moved and seconded, and the vote will then be taken in the usual way without further discussion. A mover of a motion under this provision will have the right to explain the purpose of the motion in a speech of up to 2 minutes. No debate will be allowed.

7.5 Suspension of the Guillotine

Where Full Council believes that a specific extension of time is warranted this may be agreed by a majority vote to suspend Rule 7.1 and for the meeting to continue. However, no motion to suspend this Rule to extend the meeting should be permitted after this Rule has taken effect.

7.6 Close of the Meeting

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

8 QUESTIONS WITH AND WITHOUT NOTICE

8.1 General

8.1.1 Questions from Members of the Council

Members of the Council may ask questions of Members of the Cabinet, the Leader of the Council and the Chairpersons of the Scrutiny Committees if they give appropriate notice and meet the requirements under Rule 8.3 and provided that the Mayor is satisfied that the question concerns a matter that the Member has tried and failed to resolve by other available means. The questions will be printed on the Council Agenda and all questions will receive a written response within 7 days of the Ordinary Council meeting. Only if the Mayor is satisfied that a question raises a matter of such significance which requires a more urgent response from the Cabinet, the Leader of the Council or the Chairpersons of the Scrutiny Committees, he or she may require a verbal response to be given at the Council meeting. Any questions submitted by Members of the Council will take priority over any questions submitted by members of the public.

8.1.2 Questions from Members of the Public

Members of the public i.e., people who live or work in South Tyneside, may submit written questions to Ordinary Meetings of the Council by giving appropriate notice under Rule 8.3. The questions will be printed on the Council Agenda and will receive a written response within 7 days of the Ordinary Council meeting. Only if the Mayor is satisfied that a question raises a matter which requires a more urgent response from the Council, he or she may require a verbal response to be given at the Council meeting.

8.1.3 Referral of Questions

Where the Mayor believes it is appropriate, he or she may refer questions that relate to matters specific to a particular Ward or Community Area Forum area, to the appropriate Community Area Forum Chairperson. The Mayor may also refer questions that relate to operational matters to the appropriate Director who will provide a written response to the questioner within 7 days of the Ordinary Council meeting.

8.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions and that any question submitted by Members of the Council will take priority over any questions submitted by members of the public.

8.3 Notice of questions

8.3.1 A question will only be accepted if notice has been given by delivering it in writing or by electronic mail to the Chief Executive or the Council's designated Monitoring Officer no later than midday (12.00 noon) ten (10) working days before the day of the meeting (not including the day of the meeting). Each question must give the name and address of the questioner and the Chief Executive or Monitoring Officer will arrange for the question to be printed on the Council Agenda.

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

8.4 Number of questions

No person or organisation may submit more than one written question to any one meeting of the Council. In addition, no question may be sub divided into more than two related parts. Once a question is dealt with, no one can ask a similar question for six months. Up to twenty (20) minutes maximum will be allowed at Ordinary Meetings of Council for the taking of questions and replies under Rule 8.1 (see Rule 8.14), but the Mayor will have discretion to reduce or extend that period if they consider it appropriate, which will not be open to debate.

8.5 Scope of questions

8.5.1 If the Chief Executive or the Monitoring Officer feels that a question under this paragraph:

8.5.1.1. is not about a matter for which the local authority has a responsibility, or which affects the Borough.

8.5.1.2. is illegal, defamatory, improper, irregular, frivolous, offensive or not in the Council's interest.

8.5.1.3. undermines the purposes of this Constitution.

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

8.5.1.5. requires the disclosure of confidential or exempt information.

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

8.5.2 Where the Mayor, following consultation with the Chief Executive or the Monitoring Officer, determines that a question should be rejected, the Monitoring Officer will notify the Member or member of the public concerned as soon as possible. In doing so the Monitoring Officer will explain the reasons for the rejection and that where time permits, the Member or member of the public concerned may submit a subsequent amended question that will be considered afresh. The time period for submitting questions will not be extended. Full responsibility for submitting an amended question lies with the Member or member of the public concerned and cannot be undertaken by officers on their behalf.

8.5.3 Where the Mayor, following consultation with the Chief Executive or the Monitoring Officer, determines that a question should be referred to officers for a direct written response, the Monitoring Officer will notify the Member, or the member of the public concerned as soon as possible. The Monitoring Officer will at the same time refer the question to the relevant Head of Service or Corporate Lead who will reply in writing to the Member or member of the public and circulate copies of the reply to all Elected Members within five working days of receipt of the question, identifying and removing any matters of a personal or confidential nature.

8.6 Record of questions

8.6.1 The Chief Executive or the Monitoring Officer can edit any question to make it correct and reasonably brief. The person asking the question will be consulted about any alteration.

8.6.2 The Monitoring Officer will enter each accepted question in a register open to public inspection and will immediately send a copy of the question to the Elected Member to whom it is to be put. Copies of all questions will be circulated to all Elected Members and will be made available to the public attending the meeting. Details of the reasons for the rejection of any rejected questions will be circulated to all Members.

8.7 Asking the question at the meeting

8.7.1 The Mayor will invite each Member of the Council who has submitted a question under Rule 8.1.1. to put the question to the relevant Councillor. If an Elected Member who has submitted a written question is unable to be present, he or she may ask the Mayor to put the question on his or her behalf. The Mayor may ask the question on

the questioner's behalf, indicate that a written response will be given or decide to use their discretion under Rule 8.1.1 or decide, in the absence of the questioner, that the question will not be dealt with.

8.7.2 The Mayor will refer to the questions from members of the public that are printed on the Agenda for the meeting and, except where he or she has decided to use their discretion under Rule 8.1.2, will confirm that written response will be provided to the questioners within 7 days of the meeting. If the Mayor has decided that a verbal response should be given and provided at all times that the appropriate Member has had adequate notice to consider the question, the Mayor will read out the relevant question and will invite the appropriate Member to respond.

8.8 Supplementary question

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

8.9 Responses

A response can take any of the following forms:

8.9.1 a direct oral response.

8.9.2 a reference to one of the Council's publications if it answers the question.

8.9.3 if it would not be practicable or appropriate to respond to a question orally, a written response will be provided to the questioner within 7 days.

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

8.10 Reference of question to the Cabinet or a Committee

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

8.11 Questions by Members on reports of the Cabinet and committees

An Elected Member of the Council may ask the Leader of the Council or the Chairperson of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by Full Council. The Leader of the Council or the Chairperson must respond to each question immediately. The Leader may ask any Member of the Cabinet to respond on his/her behalf, where appropriate. The Mayor can rule out questions for being repetitive, or for any of the reasons provided for in Rule 8.5, stating his or her reasons

for doing so. The Mayor may also prevent what he/she believes to be an unreasonably long preamble to a question or supplementary question and require the question to be put immediately.

8.12 Questions of Police, Joint Transport Committee and Fire Authority Representatives

An Elected Member of the Council can ask any designated representative of the Police, Joint Transport Committee or Fire and Rescue Authority any question about how the authority which they represent carries out any of its functions. He or she must give the Chief Executive or Monitoring Officer a written notice setting out the question no later than 12 noon ten (10) working days before the meeting (not including the day of the meeting). If the Mayor decides that the matter is urgent, the Member can ask the Police, Joint Transport Committee and/or Fire and Rescue representatives a question without such notice; in such cases the question must have been delivered in writing to the Chief Executive or Monitoring Officer no later than 11.00 am on the day of the meeting.

8.13 Ruling Questions Out of Order

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

8.14 Time allowed for questions on notice

8.14.1 At each meeting Members' questions under Rule 8.1 must not take longer than ten (10) minutes. Members of the Council may ask questions under Rule 8.1.1 for up to a total of 10 minutes. Where the Mayor has decided under Rule 8.1.1 that a verbal response should be given to one or more questions from Elected Members, the response(s) shall be incorporated into the allocated 10 minutes. Where the Mayor has decided under Rule 8.1.2 that a verbal response should be given to one or more questions from members of the public, the responses may take no longer than a total of 10 minutes and shall be incorporated into the overall allocated 10 minutes for questions. Any questions that have not been fully answered at the end of the period specified in this rule will be responded to in writing within 7 days of the meeting.

8.14.2 The time limit available to the questioner shall be a maximum of two minutes for an initial question and one minute for a supplementary question. The respondent shall have a maximum of five minutes for a reply to an initial question and two minutes for a reply to a supplementary question. These time limits shall be incorporated into the overall allocated 10 minutes for questions.

8.15 Minuting Questions and Answers

A summary of the key points of any questions and supplementary questions asked at a meeting of the Council and responses given under this Rule 8 will be recorded in the minutes of the meeting.

8.16 Order of Question

Full Council will deal with questions in the following order:

a) questions by Elected Members to representatives of the Police, Joint Transport Committee and Fire and Rescue Authorities under Rule 8.12.

b) questions by Elected Members under Rule 8.1.1.

c) questions submitted by members of the public under Rule 8.1.2.

9 PETITIONS

9.1 The Council welcomes petitions and recognises that petitions are an important way in which people can let the Council know their concerns. Rule 9 sets out how local people can submit a petition to South Tyneside Council and how the Council will respond. The Council will treat as a petition any written communication that is either identified as being a petition, or which seems to be intended to be a petition requesting that the Council take the action referred to in the petition and which is signed by at least 10 people that are living, working or studying in the Borough.

9.2 A petition to the Council should relate to:

9.2.1 a matter which the Council has responsibility for, or which affects South Tyneside; or

9.2.2 anything relating to the economic, social or environmental wellbeing of the borough, as long as the Council has a degree of influence over the issue.

9.3 If a petition is about something over which the Council has no direct control the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to a petition. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with South Tyneside Council policy), the Council will write to the petition organiser explaining the reasons for this. If a petition is about something that a different Authority is responsible for, the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Authority but could involve other steps. In any event the Council will always notify the petition organiser of the action it has taken.

9.4 Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It

should state what action the petitioners wish the Council to take.

- the name, the address and post code within South Tyneside where they live, work or study and signature of any person supporting the petition.

9.5 Petitions must be accompanied by contact details, including an address, for the petition organiser. This is the person the Council will contact to explain how it will respond to the petition.

9.6 If a petition does not follow the guidelines set out in Rule 9, the Council may decide not to do anything further with it. In that case, the Council will write to the petition organiser to explain the reasons.

9.7 Councillors and residents may submit petitions. Anyone who lives, works or studies in South Tyneside, including under 18's, can sign or organise a petition.

9.8 The Chief Executive or the Monitoring Officer will determine the validity of all petitions in accordance with this Rule 9. All valid petitions will be initially referred to the Council.

9.9 All petitions must be polite and be received by the Chief Executive or Monitoring Officer no later than midday ten (10) working days before a meeting (not including the day of the meeting) of the Council.

9.10 If a resident has submitted a valid petition, and it complies with this Rule 9, it will be placed on the Agenda for the next ordinary meeting of Council where it will be summarised and referral to the appropriate body. Either the Mayor or an appropriate Elected Member will present the petition to Full Council by reading the wording of the petition and announcing the number of signatories. The petition will not be debated at the meeting.

9.11 In some cases, it may take longer to deal with the petition, and the Council may not be able to add it to the Agenda for the next ordinary meeting of Council. The Council will inform the petition organiser if there is any delay in responding to the petition. No additional signatures to a petition will be accepted once the petition has been submitted.

9.12 If an Elected Member has submitted a valid petition, and it complies with this Rule 9, it will be placed on the Agenda for the next ordinary meeting of Council. The Councillor will read the wording of the petition and will announce the number of signatories. The petition will not be debated at the meeting.

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

9.14 When considering a petition, the appropriate body may allow someone who has signed the petition to speak in support of it. This will be at the discretion of the Chair

of the appropriate body. The appropriate body will record the action it has taken on a petition and report back to Full Council no later than at the second ordinary meeting after the meeting when the petition was first presented.

9.15 In this Rule 9, 'appropriate body' means the Cabinet or the relevant Senior Officer in the case of an executive function, or the relevant Committee, Sub-Committee, Community Area Forum or Senior Officer in the case of a non-executive function.

9.16 The Council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in its acknowledgement of the petition. A petition may also be considered inappropriate if the matter relates to ongoing legal proceedings or targets individual Elected Members of members of a community. The Council's Chief Executive or Monitoring Officer, in consultation with the Mayor, will be responsible for determining the appropriateness of petitions.

9.17 In the period immediately before an election or referendum the Council may need to deal with a petition differently – if this is the case the Council will explain the reasons and discuss the revised timescale which will apply.

9.18 Petitions submitted in respect of planning applications will be dealt with as representations within the Planning Protocol in Part E Section 5 of this Constitution. If the petition is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply and therefore will not be considered under Rule 9.

9.19 A petition will not normally be considered where it is received within 12 months of another petition being considered by the Council on the same matter (unless there has been a material change in circumstances).

9.20 If a petition organiser feels that the Council has not dealt with their petition properly, the petition organiser has the right to request that South Tyneside Council's Overview and Scrutiny Committee review the steps that the Council has taken in response to the petition. It is helpful to everyone and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

10 MOTIONS ON NOTICE

10.1 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by five Elected Members, must be delivered to the Chief Executive or Monitoring Officer no later than midday ten (10) working days before the meeting (not including the day of the meeting). The notice may also be given by electronic mail. Where an Elected Member wishes to give notice of motion by way of electronic mail the notice must include the names of all five Elected Members. If the notice is provided by electronic mail the Proposer must copy into the notice email the

other four Elected Members who support motion with wording confirming that all those Members copied in have signed the motion. The motion will be considered valid by the Chief Executive or Monitoring Officer unless a Member copied into the notice email objects otherwise within a reasonable period. The Monitoring Officer will date the motion, number it in the order in which it is received and enter it in a book which every Elected Member can inspect.

10.2 Motion set out in agenda

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

10.2.2 A maximum of four (4) motions only will be considered at any one meeting. If a motion were submitted after 4 motions had been received, Members would be advised. The motion would need to be re-submitted in accordance with Rule 10 for the next ordinary meeting of Full Council after the meeting and would not automatically be submitted.

10.2.3 If a motion were lost due to the guillotine falling at a previous meeting, the motion would need to be re-submitted for the next ordinary meeting of Full Council in accordance with Rule 10 and would not automatically be submitted.

10.3 Scope

10.3.1 Every motion must be relevant to some matter over which the Council has powers or duties, or which affects the borough of South Tyneside. If a motion set out in the summons is not moved (either by the Councillor who gave notice or by another Councillor on their behalf), it will be treat as though it has been withdrawn and it will not be moved without fresh notice, unless the Mayor gives permission for it to be deferred to a future meeting.

10.3.2 Every motion considered under this Rule 10 must be formally proposed and seconded.

10.3.3 If notice is given of any original motion which, the Chief Executive or the Monitoring Officer feels is out of order, illegal, defamatory, irregular or improper, or if it undermines the purposes of this Constitution or would have the effect of the Council exercising an executive function within current Budget & Policy Framework, he or she will advise the Mayor who will decide whether to accept the motion and place it on the agenda or to reject the motion. If the Mayor decides not to accept the motion, the Chief Executive or the Monitoring Officer will notify the Elected Members concerned as soon as possible giving reasons for the rejection. Where time permits, the Members concerned may submit a subsequent amended motion that will be considered afresh. The time period for submitting motions will not be extended and so Members are encouraged to submit their motions in good time. Full responsibility for submitting an amended

motion lies with the Elected Members concerned and cannot be undertaken by officers on their behalf.

10.3.4 Any decisions of Full Council arising from a motion must comply with the principles of decision making (set out in Article 16 – Decision Making). Where the Mayor, in consultation with the Monitoring Officer or Corporate Lead, Legal and Governance, considers that the motion cannot comply with the principles of decision making, then the motion will stand referred to the next ordinary meeting of the Council. This will enable information to be provided to ensure that any subsequent decision does comply with the principles of decision making.

10.3.5 Once the motion or amendment is dealt with, no one can propose the same or a similar motion or amendment for a six-month period. The Chief Executive or the Monitoring Officer will advise the Mayor as to similarity and the Mayor will make the final decision. This will not be open to debate.

11. MOTIONS AND AMENDMENTS WHICH CAN BE MOVED WITHOUT NOTICE

11.1 The following motions may be moved without notice:

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

11.1.2 in relation to the accuracy of the minutes.

11.1.3 to change the order of business in the agenda.

11.1.4 to refer something to an appropriate body or individual.

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

11.1.6 to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them.

11.1.7 to withdraw a motion.

11.1.8 (subject to rule 12.6.6) to amend a motion.

11.1.9 extending time limits for speeches.

11.1.10 to proceed to the next business.

11.1.11 that the question be now put.

11.1.12 to adjourn a debate.

11.1.13 to adjourn a meeting

11.1.14 that the meeting continues beyond 3 hours in duration (2 hours in the case of extraordinary meetings).

11.1.15 to suspend a particular Procedure Rule.

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

11.1.17 to not hear further a member named under Rule 34.3 or to exclude him or her from the meeting under Rule 34.4; and

11.1.18 to give the consent of the Council where its consent is required by this Constitution.

12. RULES OF DEBATE FOR COUNCIL MEETINGS

Where the mover or seconder of the motion is the Mayor, they will step down from the Chair and the Deputy Mayor (or in their absence a Member appointed by the Full Council) will preside for the duration of the debate and any vote on the matter. This provision will also apply to any Elected Member presiding over the Council meeting in the absence of the Mayor and Deputy Mayor.

12.1 No speeches until motion seconded

No speeches may be made by any other Elected Member until after the mover has moved a proposal and explained the purpose of it and the motion has been seconded. An Elected Member may not start their speech until invited to do so by the Mayor.

12.2 Right to require motion in writing

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

12.3 Seconder's speech

When seconding a motion or amendment, an Elected Member may reserve their speech until later in the debate. This right to speak is lost if a closure motion is carried.

12.4 Content and length of speeches

12.4.1 Speeches must be directed to the question under discussion or to a personal explanation or Point of Order. No speech by the mover of a motion will exceed five minutes without the consent of the Mayor. Any other speech will not exceed three minutes without the consent of the Mayor. The Mayor can give permission for a speaker to speak for an extra period.

12.4.2 The Councillor submitting the Council's Annual Revenue Budget for approval will be entitled to speak for up to a maximum of forty (40) minutes. The main speaker of the minority group will be entitled to speak for a period up to twenty (20) minutes in reply. The Mayor can give permission for a speaker to speak for an extra period.

12.4.3 The Mayor will warn an Elected Member for irrelevance, unnecessary repetition, failure to address the Mayor, unbecoming language or offensive remarks about an Elected Member, officer or any third party. If the Elected Member does not take notice, the Mayor may order the Elected Member to end the speech and may take further action. (see Members Conduct, paragraph 34 below)

12.5 When a councillor may speak again

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

12.5.1 to speak once on an amendment moved by another Elected Member.

12.5.2 to move a further amendment if the motion has been amended since he/she last spoke.

12.5.3 if his/her first speech was on an amendment moved by another Elected Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried).

12.5.4 in exercise of a right of reply.

12.5.5 on a Point of Order (See Rule 12.12).

12.5.6 on a Point of Information (See Rule 12.13) and

12.5.7 by way of personal explanation (See Rule 12.14).

12.6 Amendments to motions

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

12.6.1.1 to refer the matter to an appropriate body or individual for consideration or reconsideration.

12.6.1.2 to leave out words.

12.6.1.3 to leave out words and insert or add others; or

12.6.1.4 to insert or add words.

12.6.2 An amendment cannot negate the motion.

12.6.3 The protocol annexed to these Rules gives Elected Members guidance on proposing amendments.

12.6.4 The Mayor may require an amendment to be put in writing and handed to him/her before it is discussed.

12.6.5 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

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

12.6.7 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

12.6.8 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

12.6.9 A Member may withdraw an amendment which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

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

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

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

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

12.7 Alteration of motion

12.7.1 A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

12.7.2 A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

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

12.8 Withdrawal of motion

A councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

12.9 Right of reply

12.9.1 the mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

12.9.2 if an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

12.9.3 the right of reply is confined to addressing points raised by previous speakers.

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

12.9.5 if an amendment is approved, the mover of the motion, as amended (the substantive motion) has a right to reply at the end of the debate on the substantive motion immediately before it is put to the vote.

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

12.9.7 when the right to reply has been taken the motion or amendment will be put to the vote.

12.10 Motions which may be moved during debate

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

12.10.1 to withdraw a motion.

12.10.2 to amend a motion.

12.10.3 to proceed to the next business.

12.10.4 that the question be now put.

12.10.5 to adjourn a debate.

12.10.6 to adjourn a meeting.

12.10.7 that the meeting continues beyond 3 hours in duration.

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

12.10.9 to not hear further a member named under Rule 34.3 or to exclude him or her from the meeting under Rule 34.4; and

12.10.10 that a specific Rule be suspended.

12.11 Closure motions

12.11.1 A Councillor may move, without comment, the following motions at the end of a speech of another Elected Member:

a) to proceed to the next business.

b) that the question be now put.

c) to adjourn a debate; or

d) to adjourn a meeting.

12.11.2 If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

12.11.3 If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

12.11.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

12.12 Point of Order

A Councillor may raise a point of order at any time. A Point of Order is a query as to whether correct procedure is being followed. A Point of Order must relate to a Rule or statutory provision and the Member must immediately specify how that Rule or provision has been infringed. The Mayor will hear them immediately. A Point of Order may only relate to an alleged breach of these Council Procedure Rules or the law. The Councillor must indicate the rule of law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final and is not open to discussion.

12.13 Point of information

When giving a point of information a councillor must briefly give information to correct an alleged inaccuracy in a speech about the matter. It can be a clarification or can question the facts and ask for a source. When making a Point of information, Members must await the conclusion of the relevant speech. The ruling of the Mayor on the matter will be final and is not open to discussion.

12.14 Personal explanation

A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood or misinterpreted in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final and is not open to discussion. When making a point of personal explanation, Members must await the conclusion of the relevant Member's speech.

12.15 Mayor's Ruling

The Mayor's ruling on a Point of Order, Point of Information or Personal Explanation is final and will not be open to discussion.

13 PREVIOUS DECISIONS AND MOTIONS

13.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Full Council within the past six months cannot be moved unless the notice of motion is signed by at least 12 Elected Members. When the Council has dealt with this motion or amendment no Elected Member can propose a motion or amendment to cancel it for at least six months.

13.2 Motion similar to one previously rejected

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

14 MINUTES

14.1 Signing the minutes

14.1.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting.

14.1.2 The Mayor will move that the minutes of the previous meeting be signed as a correct record. Discussion of the minutes must be limited to their accuracy only.

14.1.3 Minutes of meetings will be published and circulated to all Elected Members thereafter.

14.2 No requirement to sign minutes of previous meeting at extraordinary Meeting

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

14.2.2 The effect of this is that minutes will not be submitted for approval to an Extraordinary Meeting.

14.3 Form of minutes

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

14.4 Record of attendance

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Virtual attendance (where legally permissible) by Members counts for the purpose of the six-month rule on attendance and for Allowances, and Democratic Services will record attendance on the attendance sheet when a meeting is held virtually (if legally permissible).

15 RECEPTION OF REPORTS OF THE CABINET AND COMMITTEES

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

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

15.1.2 The mover of the report will move '*that the report of the Cabinet/ Committee held on..... be received and adopted by the Council'*.

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

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

15.2 After moving that the report is received, the moving councillor can get Council permission to do the following:

15.2.1 Withdraw any paragraph containing a recommendation. If this happens, we will deal with the recommendation as an item of business at the next ordinary meeting of Council, in accordance with Rule 27.4.2. If the matter is urgent, a special meeting of the Council will be called.

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

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

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

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

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

15.3.4 When we are considering a recommendation, move that the Committee should consider the matter again. This motion will overrule any amendment under Rule 15.3.3 above

15.4 A councillor who has moved or seconded a motion under Rule 15.3.4 above which has been lost will be allowed to move or second an amendment on the recommendation as long as they have not already spoken on that item.

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

15.5.1 the mover may speak for up to 5 minutes.

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

15.5.3 the seconder may speak for up to 3 minutes.

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

15.5.5 No other debate will be allowed, and no other amendment will be in order

15.5.6 The protocol annexed to these Rules gives members guidance on proposing amendments.

15.6 The time allowed for discussion of reports of the Cabinet shall be limited to one hour from the time the report is moved unless the Council agrees to extend this period. Once this period has elapsed debate on the report shall cease immediately and the Mayor shall call for the vote on any outstanding motions or recommendations which must be moved and seconded, and the vote will be taken

in the usual way. A mover of a motion under this provision will have the right to explain the purpose of the motion in a speech of up to 2 minutes. No further debate will be allowed.

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

Procedure Rules which relate to Committees only

16 APPLICATION

Rules 17 to 28 apply to Committees of the Council exercising non-executive and local choice functions and do not apply to the Cabinet or Committees of the Cabinet.

17 APPOINTING COMMITTEES AND SUB-COMMITTEES

At the Annual Meeting of the Council, Council will appoint all Committees that they must appoint to by law or under Rule 22. At any time, Council can appoint any other Committees needed to carry out its work, but:

17.1.1 Council will not appoint any member of a Committee to hold office later than our next annual meeting; and

17.1.2 Council can, at any time, dissolve a Committee or alter its membership.

17.2 Every Committee appointed can appoint Sub-Committees.

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

18 MEMBERSHIP OF COMMITTEES AND SUBCOMMITTEES

18.1 Committees will be set up in line with sections 15, 16 and 17 of the Local Government and Housing Act 1989. The Council will decide how many members a Committee can have, any Substitute Members and who they will be provided that no Member of the Cabinet will be allowed to sit on an Overview and Scrutiny Committee, Sub-Committee or Panel.

18.2 Any member of a Committee or Sub-Committee can resign his or her seat by sending a written notice to the Chief Executive. The Chief Executive will give the notice to the Council to determine a replacement, or the Chief Executive will appoint a replacement under Rule 18.3 below (in consultation with the Mayor). The resignation will take effect when the Chief Executive receives the notice.

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

19 CHAIRPERSON AND VICE-CHAIRPERSON OF COMMITTEES

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

19.2 No councillor will, at any time, be a Chairperson of more than one Committee (with the exception of the Leader of the Council and the Chairperson of the Overview and Scrutiny Co-ordinating and Call-in Committee). In addition, any informal panel or forum relevant to a Cabinet Member's Portfolio may be chaired by the appropriate Cabinet Member without breaching this Rule 18.2.

19.3 No councillor will, at any time, be a member of the Cabinet and also a member of Overview and Scrutiny Committee or any of the Scrutiny Sub-Committees or Panels i.e., Select Committees.

19.4 When the Chairperson of a Committee is at a meeting, he or she has the right to lead the meeting. If the Chairperson is not at a meeting the Vice-Chairperson has the right to chair the meeting. However, at any meeting the Chairperson or Vice-Chairperson can invite the Committee to appoint any Member of that Committee as a temporary Chairperson for that particular meeting (notwithstanding Rule 18.2 above).

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

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

19.7 The person who is leading a meeting can use any of the Chairperson 's powers or duties.

20 SUBSTITUTE MEMBERS

20.1 Substitute Members will be appointed in respect of Standards Committee, Constitution Committee and Audit Committee.

20.2 The Council will appoint as substitute members of Standards Committees,

Constitution Committee and Audit Committee those members nominated and approved by Full Council.

20.3 Any Member may be appointed as a Substitute provided that neither the Leader nor Deputy Leader of the Council nor any member of the Cabinet shall be eligible to be a substitute member at any Committee or Sub-Committee on which neither the Leader or Deputy Leader or a member of the Cabinet may sit.

20.4 Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting (if applicable).

20.5 It shall be the duty of Members themselves to arrange for the attendance of Substitute Members. As far as committees and sub-committees to which political balance rules apply, the substitute Member appointed shall be a member of the same political group as the Member being substituted (if possible).

20.6 The Committee Chair and Democratic Services must be notified of the attendance of a Substitute Member before the commencement of any item of business.

20.7 If a Substitute Member is present at any meeting and the appointed Member subsequently attends during the course of the proceedings, the Substitute Member will remain for the entirety of the meeting and the appointed Member shall withdraw from taking any part in the meeting.

20.8 No substitute Member should be eligible to Chair a meeting if an appointed Member of the Committee is present and willing to take the Chair.

20.9 In relation to the determination of any applications made under the Licensing Act 2003, no Member shall be eligible to be a substitute on the Licensing and Regulatory Committee or on a sub-committee established by it.

21 ATTENDANCE AT COMMITTEES OR SUB-COMMITTEES

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

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

21.3 Councillors representing wards which are affected by a report containing exempt information under Schedule 12A of the Local Government Act 1972, can attend the meeting at which that report is considered, unless the Chief

Executive feels that the report must remain confidential, and it is not necessary for councillors (other than members of the Committee or Sub-Committee) to be at the meeting in order to carry out their duties as a Councillor.

21.4 The Committee Chair and Democratic Services must be notified by a Member of the attendance of their Substitute Member before the commencement of any item of business. The Substitute Member but be advised by the Member in good and reasonable time if they are unable to attend a meeting.

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

22.1 Each Committee appointed will carry out on behalf of the Council the duties given to it. These duties are called the Committee's Terms of Reference and are included within the Articles of the Constitution, as appropriate.

22.2 From time to time, the Council may vary a Committee's Terms of Reference. The Director of Governance and Corporate Affairs is responsible for maintaining and updating the terms of reference of all our Committees.

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

22.3.1 Any restriction set by these Procedure Rules.

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

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

22.4 All Committees can delegate any of their powers and duties to Sub-Committees appointed under Rule 17. This Procedure Rule and any other conditions the Committee sets will apply to the Sub-Committee.

23 WORKING PARTIES

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

24 DELEGATION TO OFFICERS

24.1 All Committees and Sub-Committees can delegate any of their powers and duties to one or more of our officers provided that such delegations are exercised in consultation with the Chair or Vice Chair of the Committee or Sub

Committee. Any restrictions under this Constitution and any conditions the Committee or Sub-Committee considers appropriate will apply.

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

25 MINUTES

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

26 QUORUM OF COMMITTEES

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

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

27 AGENDA PAPERS FOR COMMITTEES AND SUBCOMMITTEES

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

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

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

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

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

27.4.2 Any business forming a recommendation which was withdrawn under Rule 15.2.1.

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

28 RULES OF DEBATE AND LENGTH OF MEETINGS

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

28.1.1. Rule 11 Motions and amendments

28.1.2. Rule 12 Rules of Debate

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

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

28.4 The Chairperson must interrupt the meeting and call for the vote immediately on the item under discussion. Any member speaking must stop immediately. The vote will be taken in the usual way without further discussion. Any further business not considered will not be automatically agreed but will roll forward to the next ordinary meeting of that committee.

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

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

For the purposes of Procedure Rules 29 - 45 references to Mayor will be read where appropriate depending upon the meeting in question (i.e., Cabinet, Committee or Sub-Committee) as Leader or Chairperson.

29 VOTING

29.1 Majority

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

29.2 Mayor's casting vote

In order to preserve the impartiality and dignity of the Mayor, the Mayor will not routinely vote at meetings of Borough Council, including Ordinary Meetings, the Annual Meeting and the Budget Setting meeting of Borough Council. However, the Mayor may (but is not obliged) to exercise a casting vote (Local Government Act 1972 Schedule 12 Para 39(2)) if there are equal numbers of votes for and against, the Mayor will have a casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

29.3 Method of Voting

Unless a recorded vote is demanded, the Mayor will take the vote by the use of the electronic voting system (if available) or a show of hands, or if there is no dissent, by the affirmation of the meeting. Voting rights also include members attending virtually (where legally permissible).

29.4 Taking the vote

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

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

29.5 Recorded vote (Council meeting only)

On the request of at least five (5) of the councillors present at a meeting, Full Council will take the vote by recording, either manually or electronically, councillors' names and how each councillor voted.

29.6 Right to require individual vote to be recorded

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

29.7 Voting at Budget Decision Meetings

29.7.1 Notwithstanding the above, at Budget Council meetings, a recorded vote must and will be taken on any motion or amendment relating to the budget and level of Council Tax to be levied.

29.7.2 Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

29.7.3 In this Rule 29.7 —

"budget decision" means a meeting of the Council at which it:

i. makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or

ii. issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be is included as an item of business on the agenda for that meeting;

references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

30 VOTING ON APPOINTMENTS

30.1 Every candidate nominated to represent the Council in any way or for any position we must fill, will be nominated at one of the Council meetings or at a Committee or Sub-Committee or under the power of the Chief Executive (in consultation with the Mayor) contained in Procedure Rule 18.3 above.

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

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

31 RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Virtual attendance by Members (where legally permissible) counts for the purpose of the six-month rule on attendance and for allowances.

32 DECLARATIONS OF INTERESTS IN MEETINGS

Where a Member attends a meeting of the Council or one of its committees or sub-committees, they must declare any Disclosable Pecuniary Interest and any other personal interests as defined in the Members' Code of Conduct, either at the start of the meeting, or otherwise as soon as the interest becomes apparent in the course of the meeting. In addition, where in relation to any meeting a Member has declared a

Disclosable Pecuniary Interest and any other personal interest in a matter, and the criteria contained in the Members' Code of Conduct apply, the Member must leave the room for the duration of the discussion on that matter (unless a dispensation has been granted in advance by Standards Committee in respect of that interest). Furthermore, a Member must declare any relevant dispensation at a meeting of the Council or one of its committees or sub-committees either at the start of the meeting, or otherwise as soon as the interest to which the dispensation relates becomes apparent in the course of the meeting.

33 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part D of this Constitution, or under rule 35 below.

34 MEMBERS' CONDUCT

34.1 Standing to speak

When a councillor speaks at Full Council they must stand and address the meeting through the Mayor. If more than one councillor stands, the Mayor will ask one to speak and the others must sit. Other councillors must remain seated whilst a member is speaking unless they wish to make a Point of Order or a Point of Personal Explanation.

34.2 Mayor standing

When the Mayor stands during a debate at Full Council, any councillor speaking at that time must stop immediately and sit down. The meeting must be silent.

34.3 Conduct of councillors

34.3.1 A councillor who speaks at any meeting will not accuse anyone (Member, officer or otherwise) of improper motives or use offensive expressions or unparliamentary language.

34.3.2 At any meeting, if the Mayor feels that any councillor misconducts themselves by:

34.3.2.1 persistently disregarding the ruling of the Mayor.

34.3.2.2 behaving irregularly, improperly or offensively.

34.3.2.3 purposely obstructing Council business; or

34.3.2.4 repeating themselves or using offensive language in their speech.

the Mayor, or any other councillor can move "*that the councillor named be not further heard*". If the motion is seconded, it will be put and determined without discussion.

The motion "*that the councillor named be not further heard*", will only apply to the item that is being discussed at that time.

34.4 If the councillor continues their misconduct after a motion under the previous Rule has been carried, the Mayor will:

34.4.1 move "*that the councillor do leave for the remainder of the meeting*" and if the motion is seconded, it will be put without discussion; or

34.4.2 postpone the meeting for an appropriate period.

34.5 If there is a general disturbance which the Mayor, feels makes it impossible to deal with the business, as well as any other powers he or she has, the Mayor, can postpone the meeting.

34.6 A Councillor must withdraw from the meeting room during consideration of any item of business in which they have a Disclosable Pecuniary Interest, except where permitted to remain as a result of a dispensation.

35 DISTURBANCE BY MEMBERS OF THE PUBLIC

35.1 If members of the public interrupt the proceedings at any meeting, the Mayor may warn all the members of the public or just the people concerned what will happen if they cause any more interruptions. If the public cause any more interruptions, the Mayor may order that the people concerned leave the meeting, or he or she may order that the part of the chamber open to the public is cleared.

35.2 In any meeting, no member of the public can display any banner, placard, poster or other similar item supporting, opposing or advertising any matter. If they do, the Mayor will ask them to remove it from the meeting room. The Mayor's opinion about whether any item breaks this Rule will be final and is not open for discussion.

36 PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS

Any person may take photographs of or record using any audio and/or visual equipment the proceedings in meetings which are open to the public provided such photographs or recordings are taken from the area of the meeting room reserved for the public. No Councillor may take photographs of or record the proceedings of meetings to which they are appointed as a Member of that particular meeting, committee or sub-committee.

37 AUTHORITY TO SIGN AND SEAL DOCUMENTS

37.1 The Chief Executive, Directors, the Corporate Lead, Legal and Governance and the Monitoring Officer or officers authorised by them can sign on our behalf:

37.1.1 any contract (without our seal) which we want to enter into; and

37.1.2 any document which those officers consider is proper and necessary to give effect to a resolution.

as long as nothing in this paragraph prevents any other person from being specifically authorised otherwise to sign a document.

37.2 Documents recording a transaction valued below £5,000,000 can be signed by a single officer. Documents for transactions above this amount must be signed by two officers.

37.3 A resolution of the Council or the Cabinet or a Committee or Sub-Committee with delegated powers or a decision by an officer with delegated powers shall be construed as sufficient authority for affixing the Common Seal of the Council to any document required to give effect to that resolution or decision.

37.4 Any document to which the Common Seal of the Council needs to be affixed must also be signed by:

37.4.1 the Mayor or the Deputy Mayor or the Leader of the Council or a Member of the Cabinet; and

37.4.2 the Corporate Lead Legal and Governance or such other officer as may be nominated for the purpose by the Corporate Lead Legal and Governance.

who shall sign the document where indicated after the Common Seal has been applied.

38 GENERAL AUTHORITY OF CORPORATE LEAD, LEGAL AND GOVERNANCE

38.1 If the Council has to issue any document in legal proceedings, the Corporate Lead, Legal and Governance Officer will sign it, unless the Council has authorised someone else to do this. (See Scheme of Delegations in Part C of this Constitution)

38.2 The Corporate Lead, Legal and Governance has the authority to lay Information and Complaints
for the Council or any of the Council Officers who are authorised to bring proceedings, unless we have authorised someone else to do this.

38.3 The Director of Governance and Corporate Affairs and the Corporate Lead, Legal and Governance have the authority to defend all legal proceedings brought against the Council and to take any steps he or she considers necessary to do this.

38.3.1 The Director of Governance and Corporate Affairs and the Corporate Lead, Legal and Governance may appoint non-legally qualified persons to attend court on behalf of the Council under

38.3.1.1 Section 222 of the Local Government Act 1972 which provides for local authorities to prosecute or defend or to appear in any legal proceedings, and to institute civil proceedings in its own name, as well as being able to make representations in the interests of its inhabitants at any public enquiry.

38.3.1.2 Section 223 of the Local Government Act 1972 that provides for local authorities to authorise Local Authority Officers to prosecute or defend on behalf of the Council or to appear on the Council's behalf in the Magistrates' Court; and

38.3.1.3 Section 60 of the County Courts Act 1984 provides for local authorities to authorise Local Authority Officers to exercise the right of audience in actions brought by the local authority for either or both of the following:

a) The recovery of possession of a house belonging to the authority.

b) The recovery of any rent, mesne profits, damages or other sum claimed by the authority in respect of occupation by any person of such a house.

39. MONITORING OFFICER

39.1 Each Senior Officer will immediately tell the Council's designated Monitoring Officer of any proposal, decision or omission connected to their department which may lead to a report under Section 5 of the Local Government and Housing Act 1989.

39.2 If the Chief Executive is absent, the Monitoring Officer will act (in consultation with the Mayor) to decide procedural matters within the relevant Procedure Rules.

40 SUSPENDING RULES OF PROCEDURE

40.1 For the purposes of this paragraph `Rules of Procedure` means these Procedure Rules, the Council's Procurement Procedure Rules, the Access to Information Procedure Rules, Budget and Policy Framework Rules, Executive Procedure Rules, Scrutiny Procedure Rules, Employment Procedure Rules, Financial Procedure Rules and any other Procedure Rules included in this Constitution.

40.2 **Suspension**

All of these Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council or relevant Committee or Sub-Committee are present. Suspension can only be for the duration of that particular meeting.

41 VARYING AND CANCELLING RULES OF PROCEDURE

When an addition or variation to, or cancellation of these Rules of Procedure is proposed and seconded, the motion will be postponed without discussion to first be

considered by the next ordinary meeting of Constitution Committee before coming back to the next ordinary meeting of the Council thereafter.

42 INTERPRETATION OF RULES OF PROCEDURE

The Mayor's ruling on how to apply these Procedure Rules will not be challenged at any meeting. His or her interpretation will be fully recorded in the minutes and will be final.

43 RULES OF PROCEDURE TO BE GIVEN TO MEMBERS

The Chief Executive will ensure that all councillors have access to an electronic copy of these Rules of Procedure and any legal provisions that regulate the Council's proceedings and business upon request and will notify councillors if there is a change in any of the Rules.

44 POLITICAL GROUPS

44.1 Councillors who may, from time to time, be selected as Leaders by members

of political groups will be known as "The Leader of the (name of group) Group". The councillors will give the Chief Executive written notice of their appointment for him or her to report at the Council's Annual Meeting, or at any other time when a new selection is made.

44.2 If a political group has given notice under Regulation 8(4) of the Local Government (Committees and Political Groups) Regulations 1990 that a councillor is authorised to act in place of the Leader of the Group, the councillor will be entitled to act for the relevant leader if the leader is absent or incapable or unwilling to act. The councillor will give the Chief Executive notice that they are authorised to act and will then receive any documents which the leader would have been entitled to.

ANNEX - PROTOCOL – AMENDMENTS TO MOTIONS/REPORTS

1. Members who intend to propose an amendment to a motion/report before Full Council are urged to seek guidance from the Chief Executive, the Director of Governance and Corporate Affairs or the Corporate Lead, Legal and Governance on the terms of the proposed amendment so that advice can be given as to the appropriate format of the proposal.

2. Such discussions will be on a confidential basis if the Member so requests.

3. Members are requested to write down the proposal and have copies available for the Mayor, Chief Executive and all other Members at the meeting. It is also requested that Members should read out their proposal before speaking on the matter at the meeting.

4. This protocol will not prejudice the Mayor's role at the meeting.

5. Failure to follow this protocol does not constitute a breach of the Council Procedure Rules.

PART D- RULES OF PROCEDURE

SECTION 2 - EXECUTIVE PROCEDURE RULES

1. Who may make Executive decisions?

1.1 The Leader of the Council has decided that the Cabinet will comprise nine (9) members of the Council, including himself/herself and the Deputy Leader, all of whom will be appointed by the Leader. Each Cabinet Member will be allocated one of the portfolios set out in Rule 2 below. The Leader of the Council has decided, subject to the Scheme of Delegations to Officers in Part C of this Constitution and subject to the responsibility for decision making for proposed works and activities by Friends Groups and volunteers, that all executive functions will be discharged by decisions taken at meetings of the Cabinet as a whole. If any executive functions are not included in the Scheme of Delegations, then the Leader will discharge them personally or delegate them.

1.2 Although the Leader has delegated executive decision making as described in Rule 1.1 above, he/she retains legal authority to make any executive decision.

1.3 The Leader may appoint or dismiss Cabinet members at any time, subject to the provisions of these Rules, and provided that at no time is the membership of Cabinet (including the Leader) less than 3 or more than 10.

1.4 A Cabinet Member may (with the consent of the Leader) appoint a substitute for the purposes of being consulted by Directors under the Scheme of Delegations and generally in order to cover his/her portfolio in the event that the Cabinet Member is absent or unable to act for whatever reason. All substitutes shall be drawn from amongst the other Members of the Cabinet and in consultation with the Leader of the Council.

2. Other Cabinet Councillors

2.1 Only Councillors may be appointed to the Cabinet and all appointments will be made by the Leader of the Council. There may be no co-optees and no deputies or substitutes (save as provided by Rule 1.4 above) for Cabinet Members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of a Scrutiny Committee or Panel.

2.2 The other Cabinet Councillors, including the Deputy Leader, shall hold office until the end of the Leader's term of office, or if sooner, until any of the following events occurs:

2.1.1 they resign from office; or

2.1.2 they are no longer Councillors; or

2.1.3 they are removed from office, either individually or collectively, by the Leader.

3 Proceedings of the Cabinet

meet every four weeks on a day and at a time to be determined by the Leader. Proceedings of the Cabinet shall take place in accordance with these Rules.

4 Portfolios

4.1 The nine (9) Members of the Cabinet (Cabinet Members or Lead Members) shall have the following portfolios which may only be altered by the Leader of the Council:

4.1.1 Leader of the Council

4.1.2 Deputy Leader of the Council and Culture, Leisure and the Visitor Economy

4.1.3 Children, Young People and Families

4.1.4 Adults, Health and Independence

4.1.5 Housing and Community Safety

4.1.6 Transport and Neighbourhoods

4.1.7 Voluntary Sector, Partnerships and Equalities

4.1.8 Economic Growth, Skills and Climate Change

4.1.9 Governance, Finance and Corporate Services

4.2 Further details of these portfolios are set out in Rules 8 and 9 below.

5 Terms of Reference

The Cabinet will:

5.1 Carry out all the Council's functions which are not the responsibility of Full Council whether by law or under this Constitution. In exercising these functions, the Cabinet must do so within the Budget and Policy Framework set by the Council and all decisions of the Cabinet will be subject to the call-in arrangements set out in the Constitution and these Executive Procedure Rules.

5.2 Propose the Budget and Policy Framework to the Council (including the Housing Revenue Account).

5.3 Lead the Community Planning process and the drive for 'Best Value', lead the preparation of the Council's policies and Budget, take in-year decisions on resources and priorities, and be the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs.

5.4 Respond to any recommendations and reports from Council Committees, Panels and Forums etc.

6 Further Delegation of Executive Functions

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

6.2 The Cabinet may appoint a Committee of the Cabinet to carry out or to support the Cabinet in the carrying out of Cabinet functions. Any decision of a Cabinet Committee is a decision of the Cabinet for the purpose of the 'call-in' procedure.

7 Status of Meeting

Every Cabinet meeting will be open to the public except when exempt or confidential matters are being discussed as set out in Part D Section 4 of this Constitution.

8 CABINET PORTFOLIOS

8.1 All Cabinet Members shall have responsibility to: -

8.1.1 Develop, review, propose and implement the Budget and Policy Framework determined by the Council and to deliver the outcomes for the community set out in the suite of South Tyneside plans, strategy and policy framework.

8.1.2 Develop, review and implement strategies and policies guiding the Council's work.

8.1.3 In accordance with South Tyneside plans and strategies, the Policy Framework and the Budget, ensure the Council achieves its agreed objectives and improves performance in all services.

8.1.4 Monitor the achievement of the objectives set out in plans and strategies, the Policy Framework and the Budget relating to their individual portfolios.

8.1.5 Take decisions and action on the delivery of services and the discharge of functions within the agreed policies and the Budget.

8.1.6 Within the Cabinet, all Cabinet Members shall have the following responsibilities: -

8.1.6.1 Cabinet Members have a collective responsibility for all Cabinet decisions made.

8.1.6.2 Cabinet Members shall at all times act in accordance with the law, the Policy Framework and Budget of the Council and the Council's Constitution.

8.1.6.3 The Cabinet will act as the political executive and with the Leader will exercise political leadership of the Council.

8.1.6.4 As part of their local leadership role, individual Cabinet Member will each take a lead role and responsibility for portfolios as set out in this Rule and allocated by the Leader, whilst supporting other Cabinet Members in the exercise of their lead roles and on cross-cutting issues and themes and support Member Champions, where appropriate.

8.1.6.5 Cabinet Members will participate in small groups of Cabinet Members and Task Groups, established as necessary to consider particular issues.

8.1.6.6 Cabinet Members shall attend Cabinet and other appropriate meetings and shall contribute actively, positively and constructively to debate, discussion and the Cabinet's work.

8.1.6.7 Cabinet Members shall hold meetings and work with non-executive councillors through their respective lead member groups.

8.1.6.8 Cabinet Members shall lead and participate in Cabinet presentations to non-executive members.

8.1.6.9 Cabinet Members shall establish and maintain effective working relationships with all other Councillors, the Chief Executive, Directors and other Council employees, and ensure that good relations are promoted and maintained.

8.1.6.10 Cabinet Members shall lead the development of those issues for which they have principal responsibility and shall act as the Council's spokesperson on those issues.

8.1.6.11 Cabinet Members shall attend, answer questions and explain actions at the Scrutiny Committees, Panels and Community Area Forums as requested and when invited to do so.

8.1.6.12 Cabinet Members shall, as necessary, give presentations /explanations at meetings of Full Council and participate in debates.

8.1.6.13 Cabinet Members shall be proactive about equality issues and positively promote equality initiatives, promoting and sharing good practice across the Council.

All Cabinet Members shall have the following further responsibilities: -

8.1.7 Representation: -

8.1.7.1 Cabinet Members shall represent the Council and promote the interests of the Borough on outside bodies, particularly in relation to those issues for which they have a principal responsibility.

8.1.7.2 Cabinet Members shall represent the Council to the Government, the media, the community and other stakeholder groups.

8.1.7.3 Cabinet Members shall represent the Council, the Borough and the community on the wider stage.

8.1.8 **Community Involvement/Participation**

8.1.8.1 Cabinet Members shall encourage the participation of the public and stakeholders in the decision-making processes of the Council and explain how and why decisions have been made.

8.1.8.2 Cabinet Members shall consult Ward Members about policy developments or service initiatives which have specific relevance to their area.

8.1.8.3 The Cabinet shall be the clear focus for negotiations with potential partners and others, such as the Government, regional and national bodies, and businesses considering investing in South Tyneside.

8.1.8.4 Cabinet Members shall maintain effective relationships generally with stakeholders and outside bodies and agencies, and particularly with those involved in the issues for which they have a principal responsibility.

8.1.9 **Knowledge and Skills**

8.1.9.1 Cabinet Members shall keep themselves informed about the business of the Council generally, developments in those issues for which they have a principal responsibility particularly, and the issues being considered by Scrutiny Committees and Community Area Forums.

8.1.10 **Equality and Diversity**

8.1.10.1 Lead Members are responsible for putting equality, diversity and inclusion at the heart of the Council's business and in the delivery of their portfolios – making sure that everyone in our community has equal access to the positive outcomes we aspire to across all of our priorities and that we celebrate and benefit from the rich and diverse culture of South Tyneside.

8.1.10.2 The responsibility includes consultation, participation and engagement, ensuring that the whole community is able to be involved in decision-making at an appropriate level.

8.1.10.3 All Lead Members shall take responsibility for securing better outcomes for all of South Tyneside's communities including:

8.1.10.3.1 Equal access to services and facilities for everyone.

8.1.10.3.2 Improving levels of community participation and engagement in decision-making.

8.1.10.3.3 Involvement and consultation with communities of common interest.

8.1.10.3.4 Contributing to improved performance against all national equality objectives.

9 Lead Members for individual portfolios shall take responsibility for the following:

9.1 **The Leader** shall:

9.1.1 Exercise political leadership of the Council.

9.1.2 Maintain effective relationships with MPs and the Police and Crime Commissioner.

9.1.3 Maintain effective relationships with the Council's key partners.

9.1.4 Oversee the policies, budget and organisation of the Council.

9.1.5 Lead the Council's work in relation to international, national and regional matters.

9.1.6 Oversee Council communications.

9.2 **The Deputy Leader** shall be responsible for:

9.2.1 Deputising for the Leader in his/her absence.

9.2.2 The Deputy Leader is also responsible for the Culture, Leisure & the Visitor Economy portfolio.

9.2.3 This portfolio has responsibility for culture and leisure matters within the borough including:

- Culture
- Leisure
- Heritage
- Marketing and Tourism

- Library Services
- Arts and Events

9.3 Children, Young People and Families

9.3.1 This portfolio is a statutory requirement. The Lead Member for children's services (and the Director for Children's Services) is required by law to hold direct accountability for the effectiveness, availability and value for money of the local authority children's services. The functions of the Lead Member are set out in section 18(2) of the Children Act 2004. The Lead Member hold political accountabilities for all local authority children's services, including education and social care. The Director of Children's services carries the professional accountability. There are 200 statutory duties covering children's education and social care. The Lead Member must take a strategic view in setting local priorities and budgets, provide challenge and support to the DCS and other key members of the senior management team as necessary, and facilitate and lead strategic partnerships.

9.3.2 The Lead Member for children's services (and the Director for Children's Services) has overall responsibility for "those children receiving education or children's social care in their area, children looked after or in custody (regardless of where they are placed)".

9.3.3 This portfolio includes all issues covered by the Council's Every Child Matters and Best Start in Life Agendas with political responsibility for the leadership, strategy and effectiveness of local authority children's services.

9.3.4 The Lead member will champion children's services and outcomes in local political priorities and resourcing decisions including leading Corporate Parenting arrangements. They will lead and influence strategic partnerships, with public services, the voluntary sector, private provision, and business and ensure that children and families are included in the development of local services

9.3.5 The portfolio also includes:

- Safeguarding and social care for children and young people
- Corporate Parenting
- Achievement and Inclusion
- Education
- Services for Families
- Services for Young People

9.4 Adults, Health and Independence

9.4.1 This portfolio covers the Council's statutory health and public health functions in line with the Health and Social Care Act 2012 and also includes political responsibilities for Adult Social Care and our Living Better Lives Strategy. The Lead Member for Independence and Wellbeing must provide

effective political accountability for adult social care with responsibility at Member level for ensuring a strategic approach to services for adults provided by the Council and, in particular, promoting wellbeing, independence, preventing social exclusion and protection of vulnerable adults.

9.4.2 The portfolio also covers the following service areas:

9.4.2.1 Adult Safeguarding, assessment and provision of adult social care Social Care

9.4.2.2 Prevention and Early Intervention

9.4.2.3 Information and Advice Services

9.4.2.4 Hospital Discharge, Reablement and Occupational Therapy Services

9.4.2.5 Adult Safeguarding, Safeguarding Partnership Arrangements

9.4.2.6 Commissioning including quality, diversity, and sustainability of the market

9.4.2.7 Financial Assessment Carers

9.4.2.8 Lifelong Disability Services including Preparation for Adulthood

9.4.2.9 Deprivation of Liberty Safeguards

9.4.2.10 Statutory responsibility for Carers

9.4.2.11 Health and Care Partnerships, strategic partnerships

9.4.2.12 Voluntary Sector Partnerships linked with Commissioning Agenda

9.4.2.13 Direct Service Provision – Day Opportunities, Assistive Technology, Living Better Lives Resource Centre,

9.4.2.14 Registered Services Provision – Extra Care and Shared Lives

9.4.2.15 Service Transformation and Reform

9.4.2.16 Quality and Assurance of Practice, Professional Standards

9.4.2.17 The Council's expanded health functions and responsibilities and all matters and issues covered by public health

- Drug and Alcohol Services
- Mental Health Services including Approved Mental Health Professionals
- Sexual Health Services
- Children and Families Public Health Services

9.5 **Housing and Community Safety**

9.5.1 This portfolio has responsibility for:

- Strategic Housing
- Social Housing and Supported Accommodation
- Residential Services and Building Control
- Private Sector Housing Standards
- Community safety and seeking to reduce crime and anti-social behaviour in our neighbourhoods
- Public Protection
- Emergency Planning and Business Continuity
- Community Cohesion and Social Inclusion
- Environment Health and Consumer Protection
- Licensing
- Trading standards
- Health and Safety
- Food Safety
- Pest control

9.6 **Transport and Neighbourhoods**

9.6.1 This portfolio has responsibility for strategic transport matters, including

- Public Transport
- Active Travel
- Highways, Roads and Footpaths
- Traffic and Utility Controls
- Strategic parking arrangements
- Highways Engineering, Asset and Risk Management

9.6.2 This portfolio is also responsible for:

- Strategic Infrastructure
  - Transport strategy
  - Transport infrastructure
  - Transport Development
- Digital Infrastructure including digital connectivity
- Waste Collection and Disposal including recycling
- Street Scene
- Parks, Monuments & Cenotaphs
- Bereavement Services
- Grounds Maintenance
- Area Management

9.7 Voluntary Sector, Partnerships and Equalities

9.7.1 This portfolio has responsibility for Equality, Diversity and Inclusion

9.7.2 This portfolio has responsibility for ensuring South Tyneside Council is operating effectively to support, develop and promote valuable local voluntary action across the Borough and is delivering its aims and objectives in line with Council priorities.

- Developing and overseeing the Council's role as a Co-operative Council

- Facilitating engagement, dialogue and coordination with voluntary sector and partner organisations
- Providing support, advice and coordination to enable and maximize successful external funding bids where the voluntary sector is involved
- Overseeing the bidding process, allocation and monitoring of council-provided community funding
- Identifying further opportunities for partnership coordination
- Community focussed engagement, networking and consultation with residents, voluntary sector and Partners leaders
- Community Engagement
- Friends of Groups, including responsibility for decision making for proposed works and activities by Friends Groups and volunteers, that may be required where consensus between Ward Members is not achievable.
- Homelessness
- Fuel poverty
- Food Poverty
- Cost of Living
- Humanitarian Support i.e., supporting asylum seekers
- Welfare support, rights and impact
- Gypsy, Roma, Traveller Service

9.8 Economic Growth, Skill and Climate Change

9.8.1 This portfolio is responsible for

- Regeneration and Economic Growth
- Encouraging Businesses to Grow
- Spatial Planning
- Place Development Investment and Area Growth Plans
- Industrial Estates

- Business Engagement, Support and Advice
- Business Start-ups
- Learning, Skills and Employment
- Adult Learning
- Training and Employment Hubs
- Employment Support
- Youth Employment Initiatives
- Sustainable Environmental Maintenance of our Borough
- Environmental Sustainability
- The Council's Environmental Agenda and Climate Change
- Environmental Strategy; Energy Management and Carbon Reduction

9.9 Governance, Finance and Corporate Services

9.9.1 This portfolio covers making the best possible use of all the resources the Council has to deliver the Council's priorities.

9.9.2 The portfolio includes achieving value for money and procurement.

- Ensuring the Council makes the best possible use of all the resources the Council has to deliver the Council's priorities
- Strive to achieve value for money, valued outcomes and achieve a balance between economy, efficiency and effectiveness.
- Finance, Revenue and Benefits
- Strategic Engagement and Insight
- Commissioning and Procurement
- Human Resources
- Customer Services
- Organisational Development, Culture and Wellbeing

- Council Planning Framework
- Health and Safety
- Corporate Assets
- Digital and ICT
- Legal and Governance
- Democratic Services, Scrutiny & Councillor Support
- Electoral Registration & Elections
- Information Governance
- Complaints and feedback
- Performance Management
- Civic Office

10 The Council's Scheme of Delegation and Executive functions

The Council's Scheme of Delegation in respect of executive functions will be subject to agreement by the Leader of the Council and may only be amended by the Leader. It will contain the details required in Article 6 and set out in Part C of this Constitution.

11 Conflicts of Interest

If the exercise of a Cabinet function has been delegated to a committee of the Cabinet, or an officer and a conflict of interest arises, then the function will be exercised at a meeting of the Cabinet as a whole.

12 Cabinet meetings – when and where?

Unless prevented by emergency or other unavoidable cause, the Cabinet will meet monthly at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader. Subject to the rules regarding exempt information, all Cabinet meetings will be held in public. This requirement does not include meetings, whose sole purpose is for officers to brief Cabinet Members (Note Part D Section 4).

13 Quorum

The quorum for a meeting of the Cabinet shall be three (3) Lead Members.

14 How are decisions to be taken by the Cabinet?

Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part D Section 4 of this Constitution.

15 How are Cabinet meetings conducted?

15.1 Who presides?

If the Leader is present, he/she will preside. In his/her absence, then the Deputy Leader will preside or in his/her absence a Lead Member appointed to do so by those present shall preside.

15.2 Who may attend?

The public are entitled to attend all Cabinet meetings subject to the rules regarding exempt information. Chairpersons of Scrutiny Committees and Panels and Chairpersons of Community Area Forums may be invited to attend meetings of the Cabinet to present their reports.

15.3 What business?

At each meeting of the Cabinet the following business will be conducted:

15.3.1 consideration of the minutes of the last meeting.

15.3.2 declarations of interest, if any.

16.3.3 any matters referred to the Cabinet whether by a Scrutiny Committee or Panel, the Council, a Community Area Forum or other Committee.

16.3.4 consideration of reports from Scrutiny Committees; and

16.3.5 matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules set out in Part D Section 4 of this Constitution.

17 Consultation

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

18 Who can put items on the Cabinet agenda?

18.1 Any Cabinet Member may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the

Cabinet for consideration. If he/she receives such a request the Chief Executive will comply.

18.2 The Chief Executive or the Monitoring Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a Scrutiny Committee or Full Council have resolved that an item be considered by the Cabinet.

18.3 The Chief Finance Officer and/or the Monitoring Officer may include an item for consideration on the agenda of a Cabinet meeting and may require such a meeting to be called in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a special meeting of Cabinet be convened at which the matter will be considered.

PART D- RULES OF PROCEDURE

SECTION 3 - SCRUTINY PROCEDURE RULES

1. What will be the number and arrangements for Scrutiny Committees?

1.1. The Council will have an Overview and Scrutiny Co-ordinating and Call-in Committee and Two Select Committees. There are also four Scrutiny Performance Panels. These Committees and Panels will be appointed at the Annual Meeting or as is considered appropriate from time to time. Such Committees may appoint Sub-Committees. In addition, the Select Committees will each include a voluntary community, faith or parent governor representative as non-voting co-opted members. Each Scrutiny Committee will discharge the functions conferred by section 21 of the 2000 Act and in accordance with the scrutiny provisions of the Local Government and Public Involvement in Health Act 2007 and Police and Justice Act 2006.

1.2. These representatives may speak, but not vote, on any matter.

1.3. Each Scrutiny Committee and Panel will be subject to the political balance rules in the Local Government and Housing Act 1989. Scrutiny Committees will meet in public, subject to the provisions in the Local Government Act 1972 where confidential or exempt information may be disclosed.

2. Who may sit on Scrutiny Committees?

All Councillors except Cabinet Members may be members of a Scrutiny Committee. However, no councillors may be involved in scrutinising a decision in which he/she has been directly involved.

3. Meetings of the Scrutiny Committees

There shall be a meeting of the Overview and Scrutiny Co-ordinating and Call-In Committee scheduled after each Cabinet meeting on an appropriate day to deal with any called in matters. Additional meetings may be called from time to time as and when appropriate and regular meetings will take place in connection with the Committees Co-ordinating responsibilities. A Scrutiny Committee meeting may be called by the Chairperson of the Scrutiny Committee, by any five members of the Committee or by the Chief Executive if he/she considers it necessary or appropriate, or in accordance with the Council Diary.

4. Quorum

The quorum for a Scrutiny Committee shall be a quarter of the members of the Committee. Parent governor, faith or voluntary community representatives will not be counted in determining any quorum. If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will be reconvened on another date. During any meeting if the Chair counts the number of Members present and

declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

5. Declaration of Interests in Meetings

Where a Member attends a meeting of the Overview and Scrutiny Committee or one of its sub-committees/Panels, they must declare registerable and non-registerable personal interests as defined in the Members' Code of Conduct, either at the start of the meeting, or otherwise as soon as the interest becomes apparent in the course of the meeting. In addition, where in relation to any meeting a Member has declared a Disclosable Pecuniary Interest or any other personal interest in a matter, and the criteria contained in the Members' Code of Conduct apply, the Member must leave the room for the duration of the discussion on that matter.

6. Who chairs Scrutiny Committee meetings?

Chairpersons and Vice Chairpersons of Scrutiny Committees will be appointed at the Annual Meeting of the Council. If circumstances arise which require the appointment of a replacement Chairperson or Vice Chairperson, the appointment will again be agreed by Full Council.

7. Work programme

The Scrutiny Committees will be responsible for setting their own work programme (having due regard to Council resources) and in doing so they shall take into account wishes of Councillors on that Committee who are not Members of the largest political group on the Council. The work programme should include requests from the Council and the Cabinet for advice.

8. Agenda items

8.1. Any member of a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

8.2. The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee within two months of receiving it.

8.3. Any referrals received as a result of a Councillor Call for Action (CCfA) will be acknowledged at the next Overview & Scrutiny Co-ordinating and

Call-in Committee. Any Member of the Council can make a referral, provided it is a 'local government matter' and that it falls within the Committee's remit. The Committee can ask the Member Calling for Action to make representation in respect of the referral, outlining the reasons for the referral and any actions already undertaken towards resolution. The Overview & Scrutiny Co-ordinating and Call-in Committee will advise the referrer as to the next steps (possibly referring to a Scrutiny Committee) and will ensure that the matter is brought to its appropriate conclusion and that a full response is delivered to the Member making the referral, including any reports or recommendations the Committee produces in relation to the matter.

8.4. Any Member who is not a member of the Overview & Scrutiny Co-ordinating and Call-in Committee (acting as the Council's Crime and Disorder Scrutiny Committee) can make referrals of any local crime and disorder matter to the Committee. Referrals in respect of crime and disorder matters will be acknowledged at the next meeting of the Overview & Scrutiny Co-ordinating and Call-in Committee (acting as the Council's Crime and Disorder Scrutiny Committee). Appropriate next steps will be agreed, which could include further meetings (including with partners) to resolve the matter. The referring Member will be kept informed of progress and conclusion of the matter. A definition of local crime and disorder matters is provided in the Local Government and Health Act 2007 and Police and Justice Act 2006.

8.5. Referrals made to the Overview & Scrutiny Co-ordinating and Call-in Committee by the Local Involvement Network (LINK) will be acknowledged at the next meeting of the Overview & Scrutiny Co-ordinating and Call-in Committee. Appropriate next steps will be agreed, which could include further meetings (including with partners) or referral to a Scrutiny Committee. The LINK will be kept informed of progress and conclusion of the matter. In addition, the LINK is required to submit an Annual Report to the Overview & Scrutiny Co-ordinating and Call-in Committee.

9. Policy reviews and development

9.1. The role of the Scrutiny Committees 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.

9.2. In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Scrutiny Committees or Sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their Terms of Reference.

9.3. Scrutiny Committees may establish Sub-Committees, Task Groups and Scrutiny Commissions to inquire into and investigate the available options for future direction in policy development and may appoint

advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Scrutiny Committee

10.1. Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework) or to Full Council as appropriate (e.g., if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework). In these situations, the Chairperson or other member of the Scrutiny Committee nominated by him/her, will present the report to the Cabinet/Council as appropriate.

10.2. The Council or Cabinet shall consider the report of the Scrutiny Committee within one month (or otherwise as soon as practicable) of it being submitted to the Chief Executive.

11. Making sure that scrutiny reports are considered by the Cabinet

11.1. The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Scrutiny' as and when appropriate. The reports of Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within one month of the Scrutiny Committee completing its report/recommendations.

11.2. Scrutiny Committees will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12. Rights of Scrutiny Committee members to documents

12.1. In addition to their rights as Councillors, members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part D of this Constitution.

12.2. Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committees as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

13.1. Any Scrutiny Committee or Sub-Committee may scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions. This power does not relate solely to scrutiny of decisions taken and can be used to ask a Cabinet Member, for example, about forthcoming issues, provided due notice is given. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Chief Executive, a Director and/or any senior officer to attend before it to explain in relation to matters within their remit:

13.1.1. any particular decision or series of decisions.

13.1.2. the extent to which the actions taken implement Council policy; and/or

13.1.3. their performance,

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

13.2. Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chairperson of that Committee will inform the Chief Executive. The Chief Executive shall inform the Member or officer in writing notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

14. Attendance by others

14.1. A Scrutiny Committee may invite people other than those people referred to in Rule 13.1 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

14.2. Scrutiny Committees may invite appropriate persons to attend their meetings on a regular basis in an advisory capacity.

14.3. In accordance with the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006, Scrutiny Committees will have the authority to require information from relevant

partner authorities as defined in the Acts. When a Scrutiny Committee makes report or recommendations that relates to local partnerships/local improvement targets, the Scrutiny Committee must give notice in writing to the relevant partner organisation that they are required to have regard to the report or recommendations when exercising their functions. This duty excludes Health Service bodies, the Police Authority and Chief Officer of Police.

15. Call-in

Call-in should only be used in exceptional circumstances. These are where Members of the appropriate Scrutiny Committee have evidence which suggest that the Cabinet did not take the decision in accordance with the principles and Rules set out in this Constitution.

15.1. When a decision is made by the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made.

15.2. The Minutes will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless any five members of the Council (representing at least two political groups) or any three members together with the Chairperson of the relevant Scrutiny Committee object to it and call it in.

15.3. The Chief Executive shall call-in a decision for scrutiny if so requested by any such members of the Council (including co-opted members provided the Proposal relates to their area of responsibility) and shall then notify the decision taker of the call-in. The members "calling-in" must give written notice to the Chief Executive no later than 12 noon on the fifth working day after publication of the Minutes. The notice must refer to the whole decision, not part, and once given cannot be withdrawn.

15.4. Any decision which is called in by the Chief Executive under 15.3 above shall be referred to the Overview and Scrutiny Co-ordinating and Call-in Committee whose role shall be as set out in Article 8.6 of the Constitution.

15.5. When calling-in a decision the members "calling-in" shall indicate whether they want the matter to go to:

15.5.1. the Overview and Scrutiny Co-ordinating and Call-in Committee; or

15.5.2. an appropriate Scrutiny Committee, in which case a reason should be given. The Overview and Scrutiny Co-ordinating and Call-in Committee will adjudicate on such a request.

15.6. The call-in procedure shall not operate:

15.6.1. in respect of urgent matters. (An "urgent matter" is one constituting an emergency threatening the lives or wellbeing of some or all of the inhabitants of the Borough or any legal, commercial or other matter in which delay may adversely affect the Council's interests or the rights or interests of others and the Chief Executive shall be the final arbiter on whether a matter is an "urgent matter").

Note

- If the urgent matter involves a key decision which is not in the Forward Plan, then Rule 15 of the Access to Information Procedure Rules also applies.

- If the urgent matter is not in accordance with the Budget or Policy Framework, then Rule 3 of the Budget and Policy Framework Procedure Rules also applies.

15.6.2. in respect of matters which have previously been the subject of call-in.

15.6.3. if it would result in an unlawful delay in the making of the Budget.

15.7. Call-in arrangements at the Overview and Scrutiny Co-ordinating and Call-in Committee or appropriate Scrutiny Committee (the relevant Committee) -

15.7.1. The Chief Executive will place a called-in matter on the agenda of the next meeting of the Overview and Scrutiny Co-ordinating and Call-in Committee or the appropriate Scrutiny Committee.

15.7.2. The relevant Committee will then consider the Cabinet's or officer's proposal on the matter.

15.7.3. The relevant Cabinet Member whose portfolio covers the area concerned shall attend the meeting to answer questions, if required.

15.8. The relevant Committee may refer the decision which has been "called-in" back to the Cabinet for reconsideration. If the Committee considers a decision is contrary to the Policy Framework or contrary to, or not wholly in accordance with the Budget, it may refer the called-in decision to the Council.

15.9. Where the matter is referred back to the Cabinet, the Cabinet shall reconsider the matter within 14 days normally at its next planned meeting. If a decision is referred back to the Cabinet, the Cabinet may then amend the decision, or not, before implementing it. If the matter is within the Policy Framework and the Budget then the Cabinet shall have the last word, otherwise the matter will be decided by Council. Where the matter is referred to Council, it shall be considered at the next meeting of the Council.

15.10. If the relevant Committee decides not to object to the decision which has been called-in, then it takes effect immediately after than decision. If the relevant Committee refers the decision back to the Cabinet or to the Council for reconsideration, the decision takes effect on publication of the reconsideration of the decision and is not subject to further call-in.

15.11. In appropriate cases, including cases involving proposals to change the Policy Framework, the relevant Committee may refer the matter to the Council to review and scrutinise the decision. Where the matter is referred to Council, the Council may not determine Cabinet functions that are delegated to the Cabinet if these are within the Policy Framework and the Budget and must first give the Cabinet the opportunity to comment on any proposed changes to the Policy Framework and Budget.

15.12. The same procedures also apply to the call-in of key decisions by officers.

15.13. The relevant Committee has the power to require the Cabinet to submit a report to Council on any matter which is not treated as a key decision, which the Committee considers should have been treated as a key decision.

15.14. The Party Whip shall not operate in relation to the scrutiny role except in the circumstances stated in Rule 15.15 below.

15.15. When considering any matter in respect of which members of a Scrutiny Committee are subject to a Party Whip, those members must declare the existence of the Whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

16. Procedure at Scrutiny Committee meetings

16.1. Scrutiny Committees and Sub-Committees shall consider the following business:

16.1.1. minutes of the last meeting.

16.1.2. declarations of interest.

16.1.3. consideration of any matter referred to the Committee for a decision in relation to call-in of a decision.

16.1.4. responses of the Cabinet to reports of the Scrutiny Committees; and

16.1.5. the business otherwise set out on the agenda for the meeting.

16.2. Where the Scrutiny Committee conducts investigations (e.g., with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

16.2.1. that the investigation be conducted fairly, and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak.

16.2.2. that those assisting the Committee by giving evidence be treated with respect and courtesy; and

16.2.3. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

16.3. Following any investigation or review, the Committee/Sub-Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

17. Matters within the remit of more than one Scrutiny Committee

17.1 Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the Committee conducting the review shall invite the Chairperson of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

17.2 In the case of any dispute between Scrutiny Committees, the Overview and Scrutiny Co-ordinating and Call-in Committee shall resolve the matter in accordance with its role under Article 8.6 of this Constitution.

18 The Party Whip

In meetings of the Overview and Scrutiny Committee and its Sub-Committees there will be no whipping on voting.

PART D- RULES OF PROCEDURE
SECTION 4 - ACCESS TO INFORMATION PROCEDURE RULES

1. Introduction

1.1 It is a key feature of effective working and decision making in local authorities that Elected Members should have access to necessary information in a form which is accessible and provided to them in a timely manner. South Tyneside Council has a general practice of openness and transparency about the information it holds. This is subject to some legal rules that affect the disclosure of information in some circumstances, and guidance about access is set out below.

1.2 If Elected Members need information to assist them with a particular enquiry or piece of work, it is helpful if the request is made at the earliest opportunity. This will enable Officers to provide the information within a reasonable time scale. It will not always be possible to respond immediately to requests for information. If matters are particularly urgent it is helpful if that is made clear.

1.3 Thought should also be given to the nature and scope of any information being requested. Where that information might not be easily and readily available or might take considerable time or effort or expertise to collate and provide, an initial discussion with the relevant Officer (i.e., prior to any formal request) is both sensible and reasonable.

1.4 A Member can ask any service area to provide information on that service area's work if the Member needs that information to carry out that role as a Member. For example, general information about activities or specific information wanted by a constituent.

1.5 The Information Governance team will assist Members in approaching the service areas for information, either through the Members' Enquiries system or by directing Members to the right source.

1.6 Members will have access to much information to help in their role. However, some of it will be subject to data protection, confidential, sensitive, possibly personal, or potentially damaging to the Council's interests or those of other people and organisations if it is not handled with care. Because of this, everyone with access to the Council's information must ensure it is used only for the purpose it was provided for. Under the Code of Conduct a Member must not reveal confidential information received unless permission has been given to do so. Also, Members must not prevent others from getting information to which they are entitled.

2. Scope

2.1. These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Except where otherwise stated, these Rules apply to all meetings of the Council, Cabinet, committees and sub-committees and any other executive decision-making bodies of the Council that may exist from time to time, and any executive decision made by individual Members and any Key Decision made by officers as set out in either sections

A-H of the Local Government Act 1972 (by virtue of the amendments arising from the Local Government (Access to Information) Act 1985) or as required by regulations 5 and 9 of the Local Government (Executive Arrangements) (Access to Information) (England) Regulations 2000. As the Council functions under an executive form of governance (Leader and Cabinet model), it is also bound by the access to information rules as contained within the Local Government Act 2000 and the Local Government (Executive Arrangements) (Access to Information) (England) Regulations 2000. Also, in scope are Elected Member statutory rights of access to information and the common law "need to know" principle.

2.2 The Council's Procedure Rules are compliant with these statutory provisions. However, it should be noted that these Procedure Rules do not apply to rights of access under Freedom of Information, Data Protection and Environmental Information Requests and do not affect any other specific right to access information contained within this Constitution or any other legislation not referred to above.

3. Statutory Rights

3.1 An Elected Member can inspect any of the Council's documents, including reports and background papers, that contain material relating to any business discussed at a council, cabinet, committee, board or panel meeting (whether or not they are a Member of the cabinet, committee, board or panel concerned). This right also applies to members of the public.

3.2 However, this right does not apply to documents relating to certain items that appear on the private part of the agenda for any meeting. This is a statutory rule. The types of information that should not be revealed are basically those set out in the Local Government Act 1972 (as amended). These enable or require the council to remove the public and the press from meetings (for example, personal matters relating to staff or applicants for services, details of negotiations on industrial relations, contractual, business or legal matters).

3.3 Any Members who have access to information of this nature on the private part of the agenda should not release it publicly or to the press.

3.4 If there is any doubt about whether information should be revealed, Officers can take advice from the Monitoring Officer or Deputy Monitoring Officer. If a Member is unhappy with any refusal of information on these grounds, this should be raised with the Monitoring Officer or Deputy Monitoring Officer who will explain the position and answer any questions. In addition, the Council has a Whistleblowing Policy to protect those who wish to disclose matters raising serious concerns about the conduct of the Council, Officers or Members.

4. The 'Need to Know'

4.1 The right a Member has in common law to request and receive information is based on the principle that any Member has a right to inspect the Council's documents if

this is reasonably necessary in order to perform his or her duties as a Member. This principle is commonly known as the 'need to know principle'.

4.2 A Member can have information or see documents if it can be shown that there is a 'need to know'. Although the Council has a general policy of openness relating to information, the Council's information is held for the purpose of performing its functions, and there is no right for anyone to examine documents out of curiosity. If a Member wishes to have information, it must be needed to carry out the Member's public duties.

4.3 In some circumstances (for example, if a Member is a Member of a cabinet or committee and wishes to see documents relating to that cabinet or committee's work), it is assumed that there is a 'need to know'. In other circumstances, particularly if information is confidential, the Member will have to show a good reason for the request.

4.4 The term 'Council's document' is very broad and includes a document produced with the Council's resources. However, a Member from one political group will have no right to see a document which forms part of the internal working of another political group.

4.5 The Council has to keep to the rules in the Data Protection Act, which prescribe how information is handled. For example, Members cannot receive personal information that would usually breach the Act unless the person the information relates to has given their written permission for the information to be released.

4.6 Similarly, if a Member wishes to have access to confidential information about a constituent's circumstances, that constituent must give his or her permission in writing before that information can be provided. The Information Governance team can provide a model letter to use when asking for permission from a constituent.

4.7 An Officer should not, without reference to the appropriate Head of Service, provide information to a Member which is not available to the public and which the Member does not need to know in order to carry out their duties as a Member.

4.8 However, there may be circumstances where, despite being able to establish a need to know, the resources it would take to provide the information in the form required would make it unreasonable to expect the Council to provide it. An example of this would be a request for a hard copy of every record of highway maintenance undertaken over a period of two years. The Chief Executive, with the advice of the Monitoring Officer, will resolve any disagreement on this and if no agreement can be reached and the information requested by a Member is not provided, the Chief Executive will give a written explanation of the reasons.

5. Freedom of Information Requests

5.1 In addition to the above the Freedom of Information Act 2000 provides a general right of access to recorded information held by the Authority to members of the public including Members. The general right of access to information under the Act

is subject to exemptions. There are 23 categories of exemptions, some of which are absolute and others that are not.

5.2 If an absolute exemption applies, then the Council need not disclose the information. Most of the absolute exemptions are designed to carve out from disclosure under the Act information whose availability is governed by some more specialised set of rules, and that may be accessible to the applicant by some other means. For example, personal data of which the applicant is the data subject will be dealt with under the Data Protection Act 2018, disclosure of information that is subject to a duty of confidence at common law will be governed by common law principles, and disclosure of information in court documents is a matter for the rules of the Court concerned. In these cases, the exemption is made absolute not to place it beyond the public gaze, but to prevent a potentially uncomfortable interaction between two specialised and potentially incompatible regimes for its disclosure.

5.3 If a non-absolute exemption applies, then information is only exempt from disclosure if in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Examples of such exemptions are law enforcement, audit functions or where the Authority considers that disclosure would prejudice the effective conduct of public affairs.

5.4 Applications for information to be released under the Freedom of Information Act 2000 should be made to the Freedom of Information Officer.

5.5 It is not anticipated that Members would usually need to use the Freedom of Information Act 2000 to access information held by the Council as any information Members would usually seek access to would be available to Members through the other mechanisms detailed above.

6. Rights to attend meetings

The Council is required by law to ensure that meetings of the Council and its committees together with executive decision-making bodies are open to the public subject to any exceptions set out in law (Section 100A of the Local Government Act 1972 and Regulation 7 of the Local Authorities (Executive Arrangements)(Access to Information) (England) Regulations 2000 or where the Mayor or Chairman has the discretion to exclude the public for disorderly conduct (as set out elsewhere in this Constitution). Members of the public may attend all meetings subject only to the exceptions in these Rules.

7. Notices of meeting

7.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting on its website and at South Shields Town Hall, except for those that are lawfully called at less than five clear days' notice. The notice will specify the business proposed to be transacted at the meeting.

7.2 Members entitled to attend a meeting, will receive a summons giving five clear days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the annual meeting, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

8. Access to agenda and reports before meetings

8.1 The Council will make copies of the agenda and reports that do not contain exempt or confidential information (Rule 9) available for inspection at South Shields Town Hall and on the Council's website at least five clear days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be made available for inspection from the time the meeting is convened. Where an item is added to the agenda and the report does not contain exempt or confidential information, copies of the report and the revised agenda shall be available for inspection from the time the item is added to the agenda. Where reports are prepared after the summons has been issued, the Monitoring Officer or the Corporate Lead, Legal and Governance shall make each such report that does not contain exempt or confidential information available for inspection as soon as the report is completed and sent to Members.

8.2 Publication of documents has been extended to include publication on the Council website. This removes the necessity to provide a paper copy in at a time when the Council are conducting meetings virtually. For meetings open to the public, meeting notices, agendas and reports are to be available on the Council's website.

8.3 Decisions by individual members of the cabinet or officers - Access to reports intended to be taken into account by individual members of the cabinet or officers making decisions. Where an Individual Cabinet Member or Officer receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until the report has been available for public inspection for at least five clear days.

8.4 Provision of copies of reports to Scrutiny Committees - on giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

8.5 Public access to record of individual decision - As soon as reasonably practicable after any executive decision has been made by an individual Member of the Cabinet or a Key Decision has been taken by an Officer, he/she will prepare, (or the Member may instruct the Officer to prepare), a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 6 and 7 (inspection of documents after meetings) will also apply to the making of Key Decisions by Directors. This does not require the disclosure of draft reports, exempt or confidential information, or advice from a political adviser.

9. Supply of copies

The Council will supply copies of:

9.1 any agenda and reports which are open to public inspection.

9.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and

9.3 if the Monitoring Officer or Corporate Lead, Legal and Governance thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

10. Access to minutes etc after the meeting

The Council will make available for inspection copies of the following for six years after a meeting (after the minutes have been agreed as a true and accurate account):

10.1 the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or Confidential Information.

10.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record.

10.3 the agenda for the meeting; and

10.4 reports relating to items when the meeting was open to the public.

11. Background papers

11.1 List of background papers

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

11.1.1 disclose any facts or matters on which the report or an important part of the report is based; and

11.1.2 which have been relied on to a material extent in preparing the report, but this does not include published works or those which disclose exempt or Confidential Information (as defined in Rule 9) and in respect of Cabinet reports, the advice of a political adviser or any draft report or document.

11.2 Public inspection of background papers

We will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. The list of background papers appended to each report will give details of where the documents may be inspected.

12. Summary of public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be provided upon request and will be available to the public at South Shields Town Hall upon appointment.

13. Exclusion of access by the public to meetings

13.1 Confidential Information – requirement to exclude public

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

13.2 Meaning of Confidential Information

Includes information given to the Council by a Government Department on terms which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any law or other enactment or by the order of a court.

13.3 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, provided:

(a) the meeting resolves to so exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies,

(b) the resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraphs 9.4 and Tables 1 & 2 below) the description of the exempt information giving rise to the exclusion of the public, and

(c)the resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

13.3.1 In these circumstances, public access to reports, background papers and minutes will also be excluded.

13.3.2 The public may also be excluded from meetings, where the meeting, Mayor or Chairperson so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

13.3.3 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 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the European Convention on Human Rights.

13.4 Meaning of exempt information

13.4.1 Schedule 12A to the Local Government Act 1972 defines the categories of information which may be treated as exempt information. Those categories are set out in Table 1 below.

13.4.2 Categories 1 – 7 may apply to reports to the Council and the Cabinet, and their committees and sub-committees.

13.4.3 When the Standards Committee, or any sub-committee of the Standards Committee, is considering a matter referred to it under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2003, Categories 7A to C may also apply.

13.4.4 Information in Categories 1 – 7 in the Table below can only be treated as exempt if, and only for so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. This test does not apply to information in Categories 7A to C.

13.4.5 Information falling within any of the categories is not exempt if it relates to proposed development for which the Council can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

13.4.6 When a Scrutiny Committee is considering matters relating to the health service in South Tyneside, special rules apply. These are set out in Table 2 below

TABLE 1 - EXEMPT INFORMATION (General)	
Category	**Condition**
1. Information relating to any individual.	Exemption of the information must be in the public interest (see 13.4.4 above
2. Information which is likely to reveal the identity of an individual.	Exemption of the information must be in the public interest (see 13.4.4 above)

3. Information relating to the financial or business affairs of any particular person, including the Council	Exemption of the information must be in the public interest. The information must not be required to be registered under:- a) the Companies Act 1985; b) the Friendly Societies Act 1974; c) the Friendly Societies Act 1992; d) the Industrial and Provident Societies Acts 1965 to 1978; e) the Building Societies Act 1986; or f) the Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or officer-holders under, the Council.	Exemption of the information must be in the public interest (see 13.4.4 above)
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Exemption of the information must be in the public interest (see 13.4.4 above)
6. Information which reveals that the Council proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment	Exemption of the information must be in the public interest (see 13.4.4 above)

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Exemption of the information must be in the public interest. (see 13.4.4 above)

7A. Information which is subject to any obligation of confidentiality	
7B. Information which relates in any way to matters concerning national security	
7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act	

TABLE 2 - EXEMPT INFORMATION (SCRUTINY OF HEALTH SERVICE MATTERS)	
Category	**Condition**
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular officeholder, former office-holder or applicant to become an office-holder under, a relevant body	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description
2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of a relevant body	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description
3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description

4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description
5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods and services	Information falling within paragraph 5 is exempt information if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons
6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information falling within paragraph 6 is exempt information if and so long as disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning the property or goods or services
7. The identity of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services	
8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between a relevant body or a Minister of the Crown and employees of, or officeholders under, a relevant body	Information falling within paragraph 8 is exempt information if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph

9. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with - (a) any legal proceedings by or against a relevant body; or (b) the determination of any matter affecting a relevant body; (whether, in either case, proceedings have been commenced or are in contemplation).	
10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Primary Care Trust or Health Authority	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description
11. Information relating to a particular person who— (a) is or was formerly providing primary medical services or primary dental services under a contract under section 28K or 28Q of the 1977 Act; (b) is or was formerly included in, or is an applicant for inclusion in, a list under section 28X of the 1977 Act	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description
12. Information relating to any particular employee, former employee, or applicant to become an employee, of a person referred to in paragraph 10, or 11	Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description
13. Information relating to the physical or mental health of a particular individual	

NOTE

In Table 2 —

“disposal”, in relation to property, includes the granting of an interest in or right over it.

“employee” means a person employed under a contract of service.

“labour relations matter” means—

(a) any of the matters specified in paragraphs (a) to (g) of section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c 52) (matters which may be the subject of a collective agreement), or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to officeholders under a relevant body as they apply in relation to employees of a relevant body;

“office-holder”, in relation to a relevant body, means the holder of any paid office appointments to which are or may be made or confirmed by the body or by any person who holds any such office or is an employee of the body.

14. Exclusion of access by the public to reports

14.1 The Corporate Lead, Legal and Governance or the designated Monitoring Officer may, if they think fit, exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 13, the public is likely to be excluded from the meeting.

14.2 Such reports will be marked “Not for publication”. In all cases, an exempt report will state the category under which it is exempt and will state why the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The minutes of the meeting will also record these details.

15. Application of rules to Cabinet and other Briefing Meetings

Rules 2 - 14 do not apply to any meetings whose sole purpose is for officers to brief Cabinet Members or other decision makers, including any informal meeting of Lead Members or other briefings of other members and/or officers.

16. Additional Procedures before taking Key Decisions

All meetings of the Cabinet must be held in public, and Rules 1-10 apply to all public meetings, unless Rules relating to confidential or exempt information applies to all or part of the meeting or if the advice of a political adviser is likely to be disclosed or Rule 15 applies. Subject to 18 (general exception) and 19 (special urgency), a Key Decision may not be taken unless:

16.1 a notice (called here a Forward Plan) has been published in connection with the matter in question.

16.2 at least five clear days have elapsed since the publication of the Key Decision Plan; and

16.3 where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 7 (notices of meeting)

17. The Forward Plan

17.1 Period of Forward Plan

A Forward Plan will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and published on the Council's website and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

17.2 Contents of Forward Plan

17.2.1 The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, or officers in the course of the discharge of an executive function during the period covered by the plan. It will include any outstanding matters from the previous Forward Plan and all of the "decision makers" that are specified in regulation 2 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and should also include reference to joint committee arrangements in the course of the discharge of an executive function and also any area committee of the executive within the meaning of section 9E Local Government Act 2000.The Forward Plan will describe the following particulars in so far as the information is available or might reasonably be obtained:

17.2.1.1 the matter in respect of which a decision is to be made.

17.2.1.2 where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership.

17.2.1.3 the date on which, or the period within which, the decision will be taken.

17.2.1.4 the identity of the principal groups whom the decision taker proposes to consult before taking the decision.

17.2.1.5 the means by which any such consultation is proposed to be undertaken.

17.2.1.6 the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

17.2.1.7 a list of the documents submitted to the decision taker for consideration in relation to the matter.

17.2.2 The Forward Plan will be published at least 14 days before the start of the period covered and will be published on the Council's website. Democratic Services will publish once a year a notice in at least one newspaper circulating in the area, stating:

17.2.2.1 that key decisions are to be taken on behalf of the Council.

17.2.2.2 that a Forward Plan containing particular of the matters on which decisions are to be taken will be prepared on a monthly basis.

17.2.2.3 that the Plan will contain details of the key decisions to be made for the four-month period following its publication.

17.2.2.4 that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices.

17.2.2.5 that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the Plan.

17.2.2.6 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available.

17.2.2.7 that other documents may be submitted to decision takers.

17.2.2.8 the procedure for requesting details of documents (if any) as they become available; and

17.2.2.9 the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

17.2.3 Exempt information need not be included in a Forward Plan and Confidential Information cannot be included. Advice of any political advisers need not be included in the Forward Plan.

18 General exception

18.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 19 (special urgency), the decision may still be taken if:

18.1.1 the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates.

18.1.2 Democratic Services has informed the chairperson of a relevant Scrutiny Committee, by notice, of the matter to which the decision is to be made. Regulation 10(1)(a) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires that if the General Exception rule is to be used and there is no chairperson of a relevant Scrutiny Committee that notice in writing must be given to each member of the relevant Scrutiny Committee;

18.1.3 Democratic Services has made copies of that notice available to the public at the offices of the Council; and

18.1.4 at least five clear days have elapsed since the designated officer complied with 18.1.1 and 18.1.2.

18.2 Where such a decision is taken by the Cabinet collectively, it must be taken in public, unless it involves the consideration of exempt information, in which case the public may be excluded. Where such a decision is taken by an Officer then it will not be taken in public.

19 Special urgency

If, by virtue of the date by which a decision must be taken, Rule 18 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairperson of the body making the decision, obtains the agreement of the chairperson of a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent. If there is no chairperson of a relevant Scrutiny Committee, or if the chairperson of each relevant Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

20 Report to Council

20.1 When a Scrutiny Committee can require a report

20.1.1 If a Scrutiny Committee thinks that a key decision has been taken which was not:

- included in the Forward Plan; or
- the subject of the general exception procedure; or
- the subject of an agreement with a relevant Scrutiny Committee Chairperson, or the Mayor/Deputy Mayor of the Council under Rule 19

- the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rest with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by the chairperson or any five members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

20.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within ten working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

20.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 19 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. Regulation 19(3) of Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 places a duty on the Leader to submit at least one report annually to Council.

21 Record of decisions

After any meeting of the Council, Cabinet or any of its Committees, whether held in public or private, the Chief Executive or his/her representative will produce a record of every decision taken at that meeting as soon as practicable and in accordance Access to Information Procedure Rules in Part D Section 4 of this Constitution. The record will include a statement of the reasons for each decision and any alternative options

considered and rejected at that meeting and will be made accessible to Elected Members and members of the public. This will apply to decisions made by an individual Cabinet Members (including the Leader) exercising delegated powers; and any Officers exercising delegated powers.

22 Scrutiny Committee's access to documents

22.1 Rights to copies

Subject to Rule 22.2 below, a Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet, and which contains material relating to:

22.1.1 any business transacted at a meeting of the Cabinet; or

22.1.2 any key decision taken by an Officer.

22.2 Limit on rights

A Scrutiny Committee will not be entitled to:

22.2.1 any document that is in draft form (although the Cabinet may accede to such a request).

22.2.2 any part of a document that contains exempt or Confidential Information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or

22.2.3 the advice of a political adviser.

23. Common law need to know rights of access in order to assist the proper discharge of their duties as a member of the Council

23.1 Members statutory rights of access as set out in the Access to Information Rules are additional to the common law "need to know" right to access information. The need to know right of access is referenced in the Officer/Member Relations Protocol, and so for the sake of completeness, is copied here also to ensure this is not overlooked by Members and officers alike if they are looking only at the Access to Information Rules.

23.2 Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members.

23.3 Members should not put pressure on officers to release information and documents to which they are not entitled to have access. Reference should be made to the provisions of the Code of Conduct and the statutory provisions relating to members access to documents.

23.4 The common law right of Members is based on the principle that any Member has a prima facie right to inspect Council documents so far as their access to the

documents is reasonably necessary to enable the Member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

23.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that they have the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Director whose Directorate holds the document in question (with advice from the Monitoring Officer).

23.6 In some circumstances (e.g., a Committee member wishing to inspect documents relating to the functions of that Committee or a ward Councillor fulfilling constituency duties) a member's "need to know" will normally be presumed. In other circumstances (e.g., a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.

PART D- RULES OF PROCEDURE

SECTION 5 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Executive decisions

The Council will be responsible for the adoption of its Budget and Policy Framework. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive, that is, the Leader or, in the case of functions delegated by the Leader, the Cabinet, Cabinet Committee or member(s) or officers to whom an executive decision has been delegated, to implement it.

1.1. The Executive decision maker will publicise at the Council's offices, on its website, and in the local press the consultation process for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework. The Chairpersons of Scrutiny Committees will also be notified.

1.2. After the consultation, the Executive decision maker will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Committee wishes to respond to the Executive decision maker in that consultation process, then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive decision maker will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive decision maker's response.

1.3. Once the Executive decision maker has approved the firm proposals, the designated officer will refer them at the earliest opportunity to the Council for decision.

1.4. In reaching a decision, the Council may adopt the Executive decision maker's proposals, amend them, refer them back to the Executive decision maker for further consideration, or in principle, substitute its own proposals in their place.

1.5. If it accepts the recommendation of the Executive decision maker without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principal decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

1.6. The decision will be publicised in accordance with Article 3 of this Constitution and a copy shall be given to the Leader.

1.7. Where the Executive decision maker has submitted a draft Plan or Strategy to the Council for its consideration and, following consideration of that draft Plan or Strategy, the Council has any objections to it, the Council must take the action set out in Rule 1.8 below.

1.8. Before the Council -

1.8.1. amends the draft plan or strategy.

1.8.2. approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

1.8.3. adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the draft plan or strategy submitted to it to be reconsidered, in the light of those objections.

1.9. Where the Council gives instructions in accordance with Rule 1.8, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions within which the Leader may: -

1.9.1. submit a revision of the draft plan or strategy as amended (the "revised draft plan or strategy"), with the Executive decision maker's reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or

1.9.2. inform the Council of any disagreement that the Executive decision maker has with any of the Council's objections and the Executive decision maker's reasons for any such disagreement.

1.10. When the period specified by the authority, referred to in Rule 1.9 has expired, the Council must, when: -

1.10.1. amending the draft plan or strategy or, if there is one, the revised draft plan or strategy.

1.10.2. approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

1.10.3. adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive

decision maker's reasons for those amendments, any disagreement that the Executive decision maker has with any of the Council's objections and the Executive decision maker's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

1.11. Subject to Rule 1.10, where, before 8th February in any financial year, the Executive decision maker submits to the Council for its consideration in relation to the following financial year: -

1.11.1. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992.

1.11.2. estimates of other amounts to be used for the purposes of such a calculation.

1.11.3. estimates of such a calculation; or

1.11.4. amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of these estimates or amounts the Council has any objections to them; it must take the action set out in Rule 1.8.

1.12. Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 1.11.1, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Executive decision maker's estimates or amounts and must give to him/her instructions requiring the Executive decision maker to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

1.13. Where the Council gives instructions in accordance with Rule 1.12, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions within which the Leader may: -

1.13.1. submit a revision of the estimates or amounts as amended by the Executive decision maker ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive decision maker's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

1.13.2. inform the Council of any disagreement that the Executive decision maker has with any of the Council's objections and

the Executive decision maker's reasons for any such disagreement.

1.14. When the period specified by the Council, referred to Rule 1.13, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 1.13, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account: -

1.14.1. any amendments to the estimates or amounts that are included in any revised estimates or amounts.

1.14.2. the Executive decision maker's reasons for those amendments.

1.14.3. any disagreement that the Executive decision maker has with any of the Council's objections; and

1.14.4. the Executive decision maker's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

1.15. The above Rules shall not apply in relation to -

1.15.1. calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

1.15.2. amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

1.16. In approving the Budget and Policy Framework, the Council will also specify the extent of budget transfer within the Budget and degree of in-year adjustments to the Policy Framework which may be undertaken by an Executive decision maker, in accordance with these Rules and the Financial Procedure Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

1.17. The Executive decision makers will in addition to the above provisions consult the Scrutiny Committees regularly in the process of preparing the draft budget and draft plans and strategies and, where appropriate, stakeholders.

2. Decisions outside the Budget or Policy Framework

2.1. Subject to the provisions of Rule 4 (budget transfer) and Rule 3 below Executive decision makers may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or

contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 3 below.

2.2. If an Executive decision maker wants to make such a decision, they shall take advice from the Chief Executive and/or Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of any of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 3 (urgent decisions outside the Budget and Policy Framework) shall apply.

3. Urgent decisions outside the Budget or Policy Framework

3.1. An Executive decision maker may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken: -

3.1.1. if it is not practical to convene a quorate meeting of the full Council.

3.1.2. if the chairperson of a relevant Select Committee agrees that the decision is a matter of urgency; and

3.1.3. the matter has first been discussed with the Chief Executive and the Chief Finance Officer.

3.2. The reasons why it is not practical to convene a quorate meeting of full Council and the chairperson of the relevant Select Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairperson of a relevant Select Committee the consent of the Mayor, and in the absence of both, the Deputy Mayor, will be sufficient.

3.3. Following the decision, the decision maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

4. Budget Transfer

The Financial Procedure Rules set out the arrangements for authorising budget transfers between budget heads. Budget transfers of expenditure permitted under the Financial Procedure Rules shall be deemed to be expenditure within the Council's Budget.

5. In-year changes to Policy Framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by Executive decision makers must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except as set out in Rules 2, 3 and 4 above.

6. Call-in of decisions outside the Budget or Policy Framework

6.1. Where the Overview and Scrutiny Co-ordinating and Call-In Committee is of the opinion that an Executive decision maker's decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then they shall seek advice from the Chief Executive, the Chief Finance Officer and the Monitoring Officer.

6.2. In respect of functions which are the responsibility of the Leader or Cabinet, the report of the Chief Finance Officer and the Monitoring Officer shall be to the Leader or Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Leader, or a meeting of the Cabinet must decide what action to take in respect of the report and to prepare a report to Council in the event that the Chief Finance Officer or the Monitoring Officer conclude that the decision was a departure, and to the relevant Select Committee if the Chief Finance Officer and the Monitoring Officer conclude that the decision was not a departure.

6.3. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Chief Finance Officer and the Monitoring Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Select Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 days of the request by the Select Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Finance Officer and the Monitoring Officer. The Council may either:

6.3.1. endorse a decision or proposal of the Executive decision maker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

6.3.2. amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

6.3.3. require the Executive decision maker to reconsider the matter in accordance with the advice of either the Chief Finance Officer or the Monitoring Officer where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing framework to accommodate it.

PART D- RULES OF PROCEDURE

SECTION 6 - PROCUREMENT PROCEDURE RULES

All procurements, regardless of value, must be referred to the Corporate Procurement Service, which is responsible for all procurements on behalf of the Council, under the Council's supervision and control and subject to Council's overall agreement. Advice and assistance on the application of the Procurement Procedure Rules (Rules) is available from the Corporate Procurement Service.

INTRODUCTION

1. These Rules set out how the Council chooses organisations to perform the works and supply the goods and services the Council needs to carry out its duties and functions.

2. These Rules have been designed to address the many different requirements to which the Council is subject including: -

- Value for money – the Council is under a duty to secure value for money in all of its transactions.
- Legislation – a number of UK statutes, regulations and government guidance apply to procurement; and
- Fraud and corruption – procurement must be visible and tightly controlled to avoid any suggestion of corruption.
- Priorities – procurement must reflect our priorities.

3. The Rules are divided into six sections:

- Section A deals with general matters applying to procurement.
- Section B deals with the procurement of Goods and Services Contracts.
- Section C deals with the procurement of Works Contracts.
- Section D deals with receipt and Opening of Tenders under £100,000 in value.
- Section E deals with receipt and Opening of Tenders over £100,000 in value.
- Section F deals with the exceptions to these Rules.

4. The term "Instructing Officer" has been used in these Rules to denote the officer in overall charge of the Council activity to which the procurement relates. This term should be read to include all officers authorised to exercise the powers of the Chief Executive or the relevant Director either generally under the Scheme of Delegations

in this Constitution or under an individual authorisation issued in accordance with the Scheme of Delegations.

5. Advice and assistance on the application of these Rules is available from the Corporate Procurement Service.

6. Definitions of the terms used in these Rules can be found in Appendix A.

SECTION A – GENERAL MATTERS RELATING TO ALL PROCUREMENT

A1. Procurement Process to be followed

A1.1 Unless a specific exception appears in this Constitution, all goods, services and works must be procured in the following manner: -

CONTRACT	PROCUREMENT PROCEDURE
Goods and Services	In accordance with Section B
Works	In accordance with Section C

A1.2 The Instructing Officer must check, with the Corporate Procurement Service whether there is an existing contract or framework, let corporately, by consortia arrangement or Public Purchasing bodies such as a NEPO (North East Procurement Organisation), which covers the goods, works or services that are required. If there is an appropriate contract or framework, and if after consulting the Corporate Procurement Service the Instructing Officer deems it to be in the Council's best interests to use that arrangement, then it **must** be used in preference to carry out a further procurement process in accordance with these Rules.

A1.3 As part of the initial scoping process consideration should be given to whether it may be appropriate to seek an award to the In-house team for the work (including award to an operating subsidiary or commercial company established and controlled by the Council). If that is pursued, then it is essential that legal and procurement advice be sought at an early stage and that appropriate measures are taken to secure a fair and legally compliant process.

A1.4 Consideration should be given to whether there is any advantage in carrying out market engagement exercises prior to formally commencing procurement. Such exercises should be run in conjunction with the Corporate Procurement Service.

A1.5 Any service or works intended to be awarded to the in-house team between the values of £250,000 and £4,000,000 are subject to Cabinet approval and

any report to Cabinet must include the reasons why it is proposed to be awarded internally.

A1.6 Any sub-letting to third party suppliers of all or any of the works or services comprised in an in-house award, must be referred to the Corporate Procurement Service to ensure the appropriate rules are followed.

A2. Budget for the Procurement

A2.1 Before commencing any procurement activity, the Instructing Officer must estimate the value of the contract and the costs of the procurement.

A2.1.1 The Instructing Officer must ensure that they will have sufficient budget available:

A2.1.2 To meet the total estimated cost of the procurement process including the cost of officer time and any advisors' costs; and

A2.1.3 To meet the contract value or order before the contract is entered into or order placed.

A2.2 The procurement cost is the total estimated cost of all elements including the contract value, professional fees, officer time in carrying out the procurement, advertising costs, statutory charges etc. Procurement costs are normally exclusive of VAT.

A2.3 The contract value is the value of the contract or order throughout its term, including the aggregate value of Lots and any optional extensions.

A2.4 Whilst the use of Lots is required by the Public Contracts Regulations 2015 where appropriate, the procurement must not be broken down artificially into interrelated component packages to avoid any of the provisions in these Rules or the statutory regime. Contract values are normally exclusive of VAT.

A2.5 The estimated contract value shall determine the number of companies invited to submit a Quotation or Tender as detailed within Sections B and C.

A3. Authority to Commence Procurement

A3.1 Before commencing any procurement activity the Instructing Officer must ensure that they have all necessary authorities to commence the procurement process and must carry out the process in accordance with those authorities.

A3.2 No procurement activity may be undertaken until the Corporate Procurement Service has been consulted.

A4. Corporate Contract Register and the Duty to Advertise

A4.1 The Corporate Procurement Service will maintain and manage a register of all contracts and orders for works, goods or services which are to be delivered over a period of time.

A4.2 Where appropriate the Corporate Procurement Service will arrange for procurement exercises, to be advertised on an internet portal and Contracts Finder and/or the Find a Tender Service (FTS) system where appropriate.

A5. Terms and Conditions

A5.1 Before commencing any procurement activity, the Instructing Officer, in consultation with the Corporate Procurement Service and Legal Services, will decide whether it is appropriate to carry out the procurement using the Council's standard terms and conditions for purchase of goods and/or services or whether a bespoke written contract should be prepared.

A5.2 The Instructing Officer when undertaking a procurement of works must, in consultation with the Corporate Procurement Service and Legal Services, determine which appropriate recognised national or international standard form of contract should be used. The standard form of contract shall be operated in accordance with its formal published guidance.

A5.3 If the Instructing Officer, taking into account the advice of the Corporate Procurement Service and legal services, considers that the Council's standard terms and conditions or the works contract terms and conditions is not appropriate, or if they require any further guidance in the matter, they must refer the matter to the Corporate Lead Legal and Governance who will assist in the preparation of an appropriate contract or set of terms and conditions.

A5.4 The procurement documentation must include a copy of the terms and conditions of contract to which the procurement is to be subject. Where works contracts following an industry standard document, including where appropriate special conditions, are to be used, a reference to the industry standard contract to apply shall suffice. Corporate Procurement Service must confirm to organisations that Quotations or Tenders are to be submitted in accordance with those terms and conditions of contract.

A6. Council Priorities

A6.1 Before commencing any procurement activity, the Instructing Officer together with the Corporate Procurement Service must consider the applicability of all current Council priorities as reflected in the South Tyneside Strategy and must include such appropriate references and requirements in the procurement documentation. Such initiatives are likely to include.

- Social Value Act 2015
- Equality & diversity.

- Modern Slavery Act 2015
- Prevent Duty
- Data Protection and GDPR
- Collaborative Opportunities
- Value for money.
- Fair trade.
- Partnering and other service delivery models.
- Supply South Tyneside
- Concordat with small and medium enterprises.
- Compact with the Voluntary Sector; and
- Supplier Incentive Programme

A6.2 Procurement activity shall be carried out electronically, using the Council's e-procurement, e-tendering and e-auction processes. The Corporate Procurement Service will manage these processes. Guidance notes are available on the Council Procurement pages of the intranet.

A7. Procurement Procedures

A7.1 In addition to the procedures set out in sections B to E, whenever procuring goods, services or works, the following steps, where appropriate, **must** be undertaken:

- Identify a need and challenge the requirement
- Stakeholder consultation
- Officer Conduct Forms signed by all parties
- Option appraisal
- Prequalification and Tender/ Quotation procedures
- Receipt and opening of Tenders
- Evaluator Packs issued including an outline of roles and responsibilities
- Assessment and evaluation of Tenders, including scoring and record keeping

- Producing an evaluation report
- Acceptance of Tenders and subsequent award and communication with unsuccessful tenderers
- Payment of approved invoices and certificates
- Contract monitoring and supplier performance management
- Setting up Framework Agreements or Dynamic Purchasing Systems (DPS)

A7.2 The Corporate Procurement Service will advise the Instructing Officer on how any procurement exercise should be carried out, and in particular, as to whether the Public Procurement regime applies to the procurement and whether it is appropriate to seek detailed tenders or simple quotations. The presumption will be that where possible quotations will be used where the likely contract value is less than £100,000 and that tenders will be used where the contract amount exceeds that. It is possible to do quotations up to the threshold. It is however recognised that the decision on whether to use tender or quotation will be made by reference to the subject matter and the complexity of issues associated with it.

A7.3 The Instructing Officer, having taken advice from the Corporate Procurement Service, must where satisfied that it is in the Council's best interests to do so, agree that the Corporate Procurement Service should follow the agreed procurement process and publish the relevant notices including where appropriate using Find a Tender.

A8. Inviting Tenders

A8.1 All Quotations and Tenders should be invited electronically.

A8.2 Tenderers must be advised that their electronic response, must be received by the closing date and time for receipt in the electronic mailbox address supplied with the Invitation to Tender

A8.3 In exceptional circumstances, where the instructing officer, Corporate Procurement Service and Legal Services believe it is not practicable to undertake electronic quotations or tenders, then the approval of the Corporate Lead Legal and Governance must be sought to obtain agreement to use a non-electronic alternative.

A8.4 Where the Corporate Lead Legal and Governance has agreed under A8.3, bidders will be advised that their written Quotation or Tender must be received in the packaging supplied with the Request for Quotation or Invitation to Tender, or, if none is so supplied, in plain packaging, bearing the address to which they must be returned, the closing date and time for receipt at the

relevant Council Office. They shall not bear any writing or other markings from which the tenderer can be identified.

A9. Irregular and Variant Tenders

A9.1 No Irregular tender may be considered or accepted unless authorised by the Corporate Lead Legal and Governance acting in their absolute discretion.

A9.2 Variant Tenders may only be considered where their submission is expressly permitted by the Invitation to Tender documents.

A10. Errors in Tenders

A10.1 Corporate Procurement Service cannot offer any tenderer the opportunity to rectify an error in their Tender submission unless authorised to do so by the Corporate Lead, Legal and Governance acting in their absolute discretion to achieve what they consider to be the best outcome for the Council.

A10.2 Where a Tender has a value after any adjustments in excess of £250,000 the method of dealing with any error must be detailed in the report to Cabinet recommending the award of the contract. Where the value of the Tender is less than £250,000 the method of dealing with any error must be reported to and agreed by the Instructing Officer before the contract is awarded.

A11. Acceptance of a Quotation or Tender and Placing of Orders

A11.1 The Tender or Quotation that represents the most economically advantageous Quotation or Tender to the Council, shall be identified and accepted in writing.

A11.2 A resultant purchase request must be raised and duly authorised by the Instructing Officer prior to the issue of the purchase order by the Corporate Procurement Service. This purchase order shall refer to the Quotation or Tender as applicable.

A11.3 Where the Instructing Officer delegates authority to accept a Tender or Quotation, the delegated decision must be authorised using the appropriate form. In addition to the requirement that a copy of the delegated decision form is sent to the Corporate Lead, Legal and Governance, a copy must also be sent to the Corporate Procurement Service.

A12. Award of Contracts

A12.1 Contracts up to £250,000 in value may be awarded by the Instructing Officer by delegated decision. Contracts in excess of that value must be awarded by the Cabinet, except in cases of urgency, where the decision may be made by the Chief Executive or the relevant Director.

A12.2 The decision to award a contract of a value in excess of £250,000 will be a key decision. A key decision can only be made in accordance with the Cabinet

Procedure Rules and the Access to Information Rules contained in this Constitution. A key decision must normally be published in the Council's Key Decisions Plan.

A12.3 Cabinet approval for a procurement will normally be sought immediately prior to award and a report of the procurement process shall be provided. Where there is an urgent requirement to award a contract Cabinet shall be able to approve the principle of the procurement and award shall be delegated to the relevant Lead Member acting in consultation with the Leader of the Council and the relevant Director or the Chief Executive.

A13. Monitoring of Procurement

A13.1 Procurement performance is monitored and overseen by the Council's Contracts Performance Panel and though its Scrutiny arrangements. The Director of Business and Resources is the officer with overall responsibility for Procurement and will report any matters arising to appropriate senior Officers and Members.

A14. Collaborative Procurement

A14.1 As a member of NEPO, the Council will look to use collaborative contracts where it is deemed by the Council to be beneficial.

A14.2 The Council supports NEPO and will support appropriate regional procurement activity when it is deemed by the Council to be beneficial.

A14.3 Taking into account the advice of the Corporate Procurement Service, the Council will support collaborative procurement exercises with other Councils and public sector organisations, when it is deemed by the Council to be beneficial.

A14.4 If the Council is acting as the lead authority in relation to any collaborative procurement exercise, the procedure set out in Section B or Section C (as appropriate) must be followed.

A14.5 If another Council or public sector organisation is acting as the lead authority in relation to any collaborative procurement exercise, the procurement will follow the procedure set out in the Procurement Procedure Rules or equivalent of that Council or organisation. The procedure must comply with Section A of these Rules as far as possible.

A15. External Funding & Grant Conditions

A15.1 In circumstances where monies in excess of £100,000 are granted to the Council in its capacity as the accountable authority acting on behalf of another organisation, the Instructing Officer must ensure: -

A15.1.1 That any contract or set of conditions attached to the grant of the monies is approved by the Corporate Lead, Legal and Governance before they are signed; and

A15.1.2 That an agreement is entered into **before any such monies are released by the Council** between the Council and the organisation on behalf of which it is acting as accountable authority, which mirrors any contract or grant conditions to which the Council will be subject in respect of the same monies.

A15.2 In circumstances where monies in excess of £100,000 are granted to the Council to expend on its own account any conditions or grant agreement must be approved by the Corporate Lead, Legal and Governance before the grant is accepted.

A16. Contracts without a monetary value or which do not relate to a procurement exercise

A16.1 The Instructing Officer must not enter into any binding obligation in respect of an agreement without a monetary value, or which does not relate to a procurement exercise carried out in accordance with these Rules, without consulting with the Corporate Procurement Service and the Corporate Lead, Legal and Governance.

A17 Concessions

No concession contract (where the Council receives payment in monetary or other form) should be entered into without consideration of whether it is appropriate to carry out a competitive tendering exercise.

PART D- RULES OF PROCEDURE

SECTION 6 – PROCUREMENT PROCEDURE RULES

SECTION B – PROCUREMENT OF GOODS AND SERVICES

The table below sets out the minimum requirements for the procurement of Goods and Services:

Procurement value	Procurement procedure	Type of contract
Up to £5,000	Minimum of one written Quotation from South Tyneside Suppliers*	Purchase order Terms and Conditions
Between £5,001 and £25,000	Minimum of one written Quotation from South Tyneside Suppliers* and two written Quotations from Tyne & Wear suppliers*	Purchase order Terms and Conditions or Standard Terms and Conditions
Between £25,001 and Find a Tender Threshold (currently £213,477)	Minimum of two written Quotations from South Tyneside Suppliers*and two written Quotations from other suppliers or advertise opportunity on an internet portal and Find a Tender	Standard Terms and Conditions or bespoke in agreement with legal services where appropriate

B1. Procurement of Goods and Services

B1.1 The Instructing Officer must invite Quotations or Tenders in accordance with the procedure set out in the table above.

B2. Procurement Procedure for Goods and Services up to £5,000

B2.1 A minimum of one written Quotation from South Tyneside Suppliers must be received* the Instructing Officer must award the contract or place the order with a contractor who has submitted a written Quotation.

B3. Procurement Procedure for Goods and Services between £5,001 and £25,000

B3.1 A minimum of one written Quotation from South Tyneside Suppliers and two written Quotations from Tyne & Wear suppliers.* The Instructing Officer must award the contract or place the order with a contractor who has submitted a successful written Quotation.

B4. Procurement Procedure for Goods and Services between £25,001 and Find a Tender Threshold (Currently £213,477)

B4.1 A minimum of two written Quotations from South Tyneside suppliers and two written Quotations from other suppliers* When there are no identifiable suppliers able to meet this requirement, the opportunity must be advertised on an appropriate internet portal and Contracts Finder. The Instructing Officer must award the contract or place the order with a contractor who has submitted a successful written Quotation.

B4.2 In line with the table in section B for procuring goods and services a sector-based approach can also be adopted as detailed within PPN 11/20 (procurement policy note that set out the options that may be considered by Contracting Authorities when procuring contracts for goods, services and works with a value below the applicable thresholds) up to the Find a Tender threshold (currently £213,477)

B5. Procurement Procedure for Goods and Services over Public Contracts Regulations 2015 (PCR 2015) Threshold

B5.1 Where the expected contract value exceeds the published public procurement thresholds relevant at that time, the full applicable Public Contracts process, including advertising requirements, should be followed.

*This is where possible and appropriate taking into consideration availability and suitability of contractors and any legal obligations placed upon the Council.

PART D- RULES OF PROCEDURE

SECTION 6 – PROCUREMENT PROCEDURE RULES

SECTION C – PROCUREMENT OF WORKS

The table below sets out the minimum requirements for the procurement of Works

Procurement value	Procurement procedure
Up to Threshold (as applied to Goods and Services)	Minimum of three Quotations from South Tyneside Suppliers **
Between Threshold and £500,000	Minimum of four Tenders from Tyne & Wear suppliers, to include 2 South Tyneside suppliers*
over £500,001and up to Public Contracts Threshold (currently £5,336,937)	Advertise on an internet portal, Find a Tender and Contracts Finder and invite a minimum of four written tenders, or where appropriate follow the full applicable Public Contracts procedures

C1. Procurement of Works

C1.1 The Instructing Officer must invite Quotations or Tenders in accordance with the procedure set out in the table above.

C2. Procurement Procedure for Works up to Threshold for Goods and Services

C2.1 A minimum of three Quotations /Tenders from South Tyneside suppliers.*

C3. Procurement Procedure for Works between Threshold and £500,000

C3.1 A minimum of four Tenders from Tyne & Wear suppliers, to include 2 South Tyneside suppliers.*

C4. Procurement Procedure for Works over £500,001

C4.1 Advertise opportunity on both an appropriate internet portal and Contracts Finder and invite a minimum of four written tenders. Where the expected contract value exceeds the published public procurement thresholds relevant at that time, the full applicable Public Contracts process, including advertising requirements, should be followed.

*This is where possible and appropriate taking into consideration availability and suitability of contractors and any legal obligations placed upon the Council.

PART D- RULES OF PROCEDURE

SECTION 6 – PROCUREMENT PROCEDURE RULES

SECTION D - RECEIPT AND OPENING OF TENDERS UNDER £100,000 IN VALUE

D1. Procedure

D 1.1 Electronic Tenders may be used for carrying out the procurement process subject to guidance form Corporate Procurement Services. Electronic Tenders with an expected value of under £100,000 must be returned to a designated secure electronic address or through a recognised portal and must be opened by the Corporate Procurement Services after the deadline for the receipt of Tenders at one sitting. An electronic quotation system may be used to achieve this.

D1.2 Where in exceptional circumstances it is not possible to undertake an electronic process, any non-electronic Quotation/Tender under £100,000 in value must be returned to the Corporate Procurement Service and must stay in the possession of the Corporate Procurement Service until the nominated opening time.

D1.3 Non-electronic Tender/Quotations for contracts must be opened at one sitting by the Corporate Procurement Service and one witness from the list set out below:-

- The relevant Cabinet Member concerned or another member of the Cabinet or any other member of the Council.
- The Instructing Officer or an officer nominated by them
- The Director of Business and Resources or his/her internal audit representative if he/she so requires.

D1.4 Where it takes responsibility for opening tenders the Corporate Procurement Service must record the names of the persons who submitted the Quotation or Tender and the amounts of the Quotation. The Corporate Procurement Service must keep the original record and check the accuracy of the Quotation and the Instructing Officer will evaluate them in accordance with the procedure specified within the Tender documentation.

D2. Signing of Contracts/Orders

D2.1. If a contract is to be entered into the Instructing Officer may sign contracts up to £100,000 in value. Contracts in excess of £100,000 must be signed by the Corporate Lead, Legal and Governance. The Corporate Lead, Legal and Governance may instead arrange for the sealing of any contract where he/she considers it to be appropriate.

D2.2. If an order is to be placed, the Instructing Officer must: -

D2.2.1 Ensure that the Council's terms and conditions are attached to or printed on the reverse of any order to be placed; and

D2.2.2 Follow the procedure set out in A11.2

D3. Variations

D3.1 Any variations in respect of the volume of goods, services or works to be provided under an order placed or contract agreed must be recorded in writing.

D3.2 Any variation which would increase the original price by more than £5,000 or 10% of the contract value, whichever is the higher, must be reported to and approved by the Chief Executive or the Director with the responsibility for the function to which the contract relates. The Instructing Officer must ensure that the budget is available to meet the cost of the variation. Where the variation increases the value of the contract beyond £250,000 the approval of Cabinet should be sought (unless Cabinet has already approved the award).

D3.3 Any variation or modification of a written contract should be discussed with legal services and recorded in writing

PART D- RULES OF PROCEDURE

SECTION 6 – PROCUREMENT PROCEDURE RULES

SECTION E - RECEIPT AND OPENING OF TENDERS OVER £100,000 IN VALUE

E1. Procedure

E1.1 Electronic Tenders will normally be used for carrying out the procurement process. Electronic Tenders must be returned using the Council's designated procurement portal and must be opened by the Corporate Lead, Legal and Governance or a person expressly delegated to by the Corporate Lead, Legal and Governance after the deadline for the receipt of Tenders at one sitting.

E1.2. Where, in exceptional circumstances, it is not possible to undertake an electronic Tender, any non-electronic Tender must be returned to the Corporate Lead, Legal and Governance and must stay in the possession of the Corporate Lead, Legal and Governance until the nominated opening time.

E1.3. Non-electronic Tenders for contracts must be opened at one sitting by the Corporate Lead, Legal and Governance and one witness from the list set out below:-

- The relevant Cabinet Member concerned or another member of the Cabinet or any other member of the Council.
- The Instructing Officer or an officer nominated by them.
- The Director of Business and Resources or his/her internal audit representative if he/she so requires.

E1.4. The Corporate Lead, Legal and Governance must record the names of the persons who submitted Tenders and the amounts of the Tenders. The Corporate Lead, Legal and Governance must keep the original record. The Corporate Procurement Service shall check the accuracy of the Tenders and the Instructing Officer will evaluate them in accordance with the procedure specified within the Tender documentation.

E2. Signing and Execution of Contracts

E2.1. All contracts and agreements above a value of £100,000 must be signed by the Corporate Lead, Legal and Governance or their nominated representatives. The Corporate Lead, Legal and Governance may authorise sealing any contract where he/she considers it to be appropriate.

E3. Variations

E3.1. Any variations in respect of the volume of goods, services or works to be provided under an order placed or contract agreed must be recorded in writing.

E3.2. Any variation which would increase the original price by more than £15,000 or 10% of the contract value, whichever is the lesser, must be reported to and approved by the Chief Executive or the Director with the responsibility for the function to which the contract relates. The Instructing Officer must ensure that the budget is available to meet the cost of the variation.

E3.3 Where contracts have a value in excess of the Threshold due note should be taken of the requirements of the Public Contracts Regulations 2015 (Reg 72) as regards variation of contracts and the circumstances in which those variations are permitted.

PART D- RULES OF PROCEDURE

SECTION 6 – PROCUREMENT PROCEDURE RULES

SECTION F – EXCEPTIONS TO THE PROCUREMENT PROCEDURE RULES

F1. Important Note

F1.1. WHERE ANY OF THE EXCEPTIONS SET OUT IN THIS SECTION F ARE EXERCISED, THE INSTRUCTING OFFICER MUST FULLY DOCUMENT AND RECORD THE REASONS FOR DOING SO.

F1.2. IF THE USE OF THE EXCEPTION REQUIRES THE APPROVAL OF CABINET OR COUNCIL (WHERE THE CONTRACT VALUE IS IN EXCESS OF £250,000), THIS MUST BE OBTAINED BEFORE THE EXCEPTION IS EXERCISED. ALL OTHER EXCEPTIONS ARE REQUIRED TO BE RECORDED AS DELEGATED DECISIONS BEFORE THEY ARE EXERCISED.

F1.3. THE EXCEPTIONS IN THIS SECTION CANNOT BE APPLIED TO CONTRACTS THAT ARE GOVERNED BY THE PUBLIC CONTRACTS REGIME. THE COUNCIL CANNOT DISAPPLY THE REQUIREMENTS OF THE PUBLIC CONTRACTS AND FIND A TENDER REGIME.

F1.4. SCHOOLS SHOULD NOTE THAT THEY ARE BOUND BY THE PUBLIC CONTRACTS REGIME. SCHOOLS ARE ADVISED TO CONSULT THE CORPORATE LEAD LEGAL AND GOVERNANCE REGARDING THE APPLICABILITY AND REQUIREMENTS OF THE REGIME.

F2. Specific Exceptions

F2.1. These Rules do not apply to the following types of contracts: -

- Contracts of Employment (see Part D - Procedure Rules —Section 7- Employment Procedure Rules).
- Treasury Management Contracts.
- Contracts for acquiring land; and
- Contracts let by schools for any goods, works or services (although the Council encourages schools to follow these Rules as they represent good practice and comply with the legal regime).

F3. General Exceptions

F3.1. Subject to F1 above, the Chief Executive or the relevant Director can by written decision direct that these Rules will not apply to any contract up to £250,000 in value, where they consider it to be in the Council's best interests to do so.

F3.2. Subject to F1 above, the Council or the Cabinet can, by decision recorded in writing and direct that these Rules will not apply to a contract that exceeds £250,000 in value, where they consider it to be in the Council's best interests to do so.

F3.3. Subject to F1 above, the Council or the Cabinet can, by decision recorded in writing and direct that these Rules will not apply to an extension to a contract over £250,000 in value, where they consider it to be in the Council's best interests to do so**.**

F4. Procurement activity up to £100,000 in value

F4.1. For procurements up to £100,000 in value, in exceptional circumstances such as emergencies, or where there is only one supplier of the goods, services or works required, or specialist areas or where disproportionate costs would be incurred in a competitive tendering exercise, the Chief Executive or the relevant Director may authorise by written decision that only one written Quotation is obtained.

F5 Procurement of Individual Care Packages

F5.1 If it is not practical to do so, these Rules need not be followed by the Director of Children's Services, Director of Adults Social Care and Commissioning and the Director of Public Health when procuring individual care packages of a total contract value of less than £150,000 per annum. It shall not be necessary to seek the approval of Cabinet for the award of an individual care package falling within this exception.

F6. Procurement activity over £100,000 in value

F6.1. Subject to F.1, the Instructing Officer in consultation with the Corporate Procurement Service and the Corporate Lead Legal and Governance may order works, goods or services of a value over £100,000 without reference to these Rules in the following exceptional circumstances:

F6.1.1 Where the works, goods or services can only be provided by one person or firm and there could be no genuine competition and the value of the goods, works or services does not exceed £250,000.

F6.1.2 Where the supply of works, goods or services constitute a continuation of arrangements under a contract about to expire and the total value of the original contract and the extra works, goods or services does not exceed £250,000 and where the purpose is to provide continuity of service for the Council.

F7 Tyne & Wear Pension Fund

F7.1. Contracts let on behalf of the Tyne and Wear Pension Fund must comply with these Rules unless, in the opinion of the Director of Business and Resources, it is not appropriate to do so.

F7.2. References in these Rules to the Cabinet must be read as references to the Pensions Committee for Tyne and Wear Pension Fund contracts.

F7.3. All Pension Fund contracts worth more than £500,000 must be approved by the Pensions Committee. Those below that value may be let by the Director of Business and Resources. Subject to F.1, these Rules do not apply to any contracts for the acquisition and disposal of investments for the Tyne and Wear Pension Fund.

PART D- RULES OF PROCEDURE

SECTION 6 – PROCUREMENT PROCEDURE RULES

APPENDIX A – DEFINITIONS

In these Rules the following words and expressions have the following meanings:

A. **"Competitive Tendering"** means the seeking of more than two Tenders.

B. **"Contract"** means an agreement reached between the Council and the Organisation upon the acceptance of the Tender by the Council subject to the Tender Documents.

C. **"Corporate Contract"** means a contract that has already been entered into by the Council and that can be utilised on a 'call off' basis.

D. **"Corporate Contract Register**" means a register maintained by the Corporate Procurement Service which records all procurement notified to them over a period of time.

E. **"Council"** means South Tyneside Council and includes reference to the Cabinet, or person acting in accordance with delegated authority on behalf of the Council.

F. "**Dynamic Purchasing System**" is a procedure available for contracts for Goods, Services or Works that are readily available from the market and is similar to an electronic framework agreement, but where new suppliers can join at any time"

F. **'Framework agreement'** is where the Council enters into an agreement with one or more external providers who will be its preferred suppliers for a particular service or range of services**.**

G. **"Most economically advantageous"** means optimum combination of price and quality to meet the Council priorities.

H. **"Procurement"** Is the process of acquiring the necessary services, construction works, and goods required to deliver front line services to the community. It includes all activities from identification of a requirement through to the end of the useful life of the asset or service contract.

I. **"Quotation"** See Tender

J. **"Regulations"** means the Public Contracts Regulations 2015

K. **"Service"** means engagement of an organisation to provide a service.

L. **“Service delivery models”** means the appraisal options identified in the Business Case or Category Charter.

M. **“Goods”** means the articles, materials, or any other items described in the Tender Documents and supplied or to be supplied by the Contractor in accordance with the Contract.

N. “**Tender”** means a formal written offer to contract goods, services or works at a specified cost or rate. Tenders are opened after a specific deadline has passed and in one sitting. Quotations will normally share these characteristics and may be arranged through specific and dedicated electronic systems. They will be opened after a specified deadline and at a single sitting.

O. **“Threshold”** means, unless otherwise specifically stated the Public Contracts Regulations 2015 imposed threshold for the procurement of Goods and Services from time to time and which at the time of writing these rules stands at £213,477. NB the Goods and Services threshold is also relevant to the procurement of works as it is the trigger point at which it is legitimate to use SQ as part of the procurement process.

PART D- RULES OF PROCEDURE

SECTION 7 – EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

1.1. Declarations

1.1.1. The Council will adopt a policy requiring a candidate for any appointment to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council graded at a minimum above SCP 23 or equivalent, or of the partner of such persons.

1.1.2. No candidate so related to a Councillor or any such officer will be appointed without the consent of the Corporate Lead Human Resources.

1.2. Seeking support for appointment.

1.2.1. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or any employee of the Council for that appointment with the Council. The content of this Rule and Rule 1.1 above will be included in any recruitment information.

1.2.2. No Councillor or employee of the Council will seek support for any person for any appointment with the Council. This rule shall not preclude any member or employee of the Council from giving a written testimonial of any candidate's ability, experience or character for consideration in conjunction with an individual application, but having given such a testimonial, that member or employee shall take no part in the short listing or interview process.

2. Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers

Where the Council proposes to appoint a Head of Paid Service, Chief Officer or Deputy Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

2.1. draw up a statement specifying:

2.1.1. the duties of the post concerned; and

2.1.2. any qualifications or qualities to be sought in the person to be appointed.

2.2. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

2.3. make arrangements for a copy of the statement mentioned in paragraph 2.1 to be sent to any person on request.

3. Officers below Deputy Chief Officer level

Subject to Rules 3.1 and 5 below, the function of appointment and dismissal of, and taking disciplinary action against, an employee of the Council must be discharged, on behalf of the Council, by the Chief Executive, a Director or by an officer nominated by him/her.

3.1. Rule 3 above shall not apply to the appointment or dismissal of, or disciplinary action against -

3.1.1. the officer designated as the Head of the Council's Paid Service.

3.1.2. a statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 ("the 1989 Act").

3.1.3. a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act.

3.1.4. a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act; or

3.1.5. an assistant for a political group appointed in pursuance of section 9 of the 1989 Act.

4. Appointment, Dismissal of Chief Officers and Deputy Chief Officers

Appointments

4.1. Where the Human Resources Committee or any relevant Sub-Committee is discharging, on behalf of the Council, the function of the appointment or dismissal of an officer designated as the Head of the Council's Paid Service, the Full Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

4.2. Where the Human Resources Committee or a relevant Sub-Committee is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in Rules 3.1.1 to 3.1.4 above, at least one member of the Cabinet must be a member of that Committee or Sub-Committee.

4.3. An offer of an appointment as an officer referred to in Rules 3.1.1 to 3.1.4 above must not be made until: -

4.3.1. the Human Resources Committee or relevant Sub-Committee has notified the proper officer of the name of the person to whom it wishes to make the offer and any other particulars which the Committee or Sub-Committee considers are relevant to the appointment.

4.3.2. the proper officer has notified every member of the Cabinet of:-

4.3.2.1. the name of the person to whom the Human Resources Committee or relevant Sub-Committee wishes to make the offer (or in the case of the appointment of the Head of Paid Service, subject to approval of the Council);

4.3.2.2. any other particulars relevant to the appointment which the Committee or Sub-Committee has notified to the proper officer; and

4.3.2.3. the period within which any objection to the making of the offer is to be made to the proper officer by the Leader on behalf of the Cabinet; and

4.3.3. either -

4.3.3.1. the Leader has, within the period specified in the notice under Rule 4.3.2.3 above, notified the Human Resources Committee or relevant Sub-Committee that neither he nor any other member of the Cabinet has any objection to the making of the offer;

4.3.3.2. the proper officer has notified the Human Resources Committee or relevant Sub-Committee that no objection was received by him within that period from the Leader; or

4.3.3.3. the Human Resources Committee or relevant Sub-Committee (or in the case of the appointment of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader within that period is not material or well-founded.

4.4. Notice of the dismissal as a result of disciplinary action, of an officer referred to in Rules 3.1.1 to 3.1.4 above must not be given until –

Dismissals

4.4.1. the Human Resources Committee or relevant Sub-Committee has notified the proper officer of the name of the person who

it wishes to dismiss (in the case of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, subject to the approval of the Council) and any other particulars which the it considers are relevant to the dismissal;

4.4.2. the proper officer has notified every member of the Cabinet of:

4.4.2.1. the name of the person who the Committee or relevant Sub-Committee wishes to dismiss;

4.4.2.2. any other relevant particulars relevant to the dismissal which the Committee or Sub-Committee has notified to the proper officer; and

4.4.2.3. the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and

4.4.3. Either -

4.4.3.1. the Leader has, within the period specified in the notice under Rule 4.4.2.3 above, notified the Human Resources Committee or relevant Sub-Committee that neither he nor any other member of the Cabinet has any objection to the dismissal;

4.4.3.2. the proper officer has notified the Human Resources Committee or relevant Sub-Committee that no objection was received by him within that period from the Leader; or

4.4.3.3. the Human Resources Committee or relevant Sub-Committee (or in the case of the proposed dismissal of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader within that period is not material or well founded.

5. Appeals

Nothing in Rule 3 above shall prevent a Member from serving on a Committee or Sub-Committee established by the Council to consider an appeal by: -

5.1. a person against any decision relating to the appointment of that person as an employee of the Council; or

5.2. an employee of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that employee.

6. Disciplinary action - Head of Paid Service, Monitoring Officer and Chief Finance Officer

6.1 Where there are reasonable grounds, the Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended by the Human Resources Committee or relevant Sub-Committee whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. The investigation will be carried out by a suitable external legally qualified person appointed by the Disciplinary Panel.

6.2 No further period of suspension may be imposed in respect of any of those officers except in accordance with the approval of the Disciplinary Panel, which shall be constituted in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and shall consist of the Authority's Independent Person(S).

6.3 Where the Human Resources Committee or Sub Committee is dealing with disciplinary action against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Independent Person(s) appointed to the Disciplinary Panel shall be invited to attend and observe the Committee's proceedings.

7 Dismissal of Head of Paid Service, Monitoring Officer or Chief Finance Officer

7.1 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer shall only be dismissed by a resolution of Council, and Council must approve that dismissal before notice of dismissal is given to that person.

7.2 Where the Human Resources Committee or relevant Sub Committee has recommended that Head of Paid Service, the Monitoring Officer or the Chief Finance Officer be dismissed, the views of the Disciplinary Panel must be sought on the proposed dismissal. Before the taking of a vote at the relevant meeting of the Council on whether to approve such a dismissal, the Council must take into account, in particular—

(a) any advice, views or recommendations of the Disciplinary Panel;

(b) the conclusions of the investigation into the proposed dismissal; and

(c) any representations from the officer whose dismissal is under consideration.

PART D- RULES OF PROCEDURE

SECTION 8 - FINANCIAL PROCEDURE RULES

Contents

	Page
1. Introduction to Financial Procedures	266
2. Budget Preparation	271
3. Budget Approval	271
4. Budget Transfers	272
5. Budget Monitoring and the Control of Income and Expenditure	273
6. Reporting Council Spending at Year End	274
7. Use of Council Reserves	275
8. Systems and Procedures	275
9. Risk Management	276
10. Internal Control	276
11. Audit Requirements	276
12. Preventing Fraud and Corruption	276
13. Use of Council Assets	276
14. Treasury Management	276
15. Partnerships	278
Appendix A - List of Financial Management Standards	279

FINANCIAL PROCEDURE RULES

1. Introduction to Financial Procedures

One of the key characteristics of high performing Local Authorities is good financial management. Ultimately, the provision and future development of all Council services rests on a strong and stable financial environment. Financial management is not only the preserve of specialist finance staff or accountants. Integrity of finance and good stewardship of resources must run throughout all our operations. These Financial Management Standards have been prepared as a guide through the practices and procedures which underpin good financial management. The purpose of the Financial Management Standards is to embed the smooth and efficient management of finance. An up to date copy of the Financial Management Standards can be obtained from Director of Business and Resources. If you have any queries on the Financial Management Standards, or financial procedures generally, please contact the Director of Business and Resources.

What are financial procedures?

1.1. To conduct its business efficiently, a Local Authority needs to ensure that it has a sound financial management framework in place and that this is strictly adhered to.

1.2. All financial decisions and decisions with financial implications must have regard to proper financial control. Any doubt as to whether a financial proposal is appropriate, or whether a financial action is correct, must be clarified in advance of the decision or action with the Chief Finance Officer, Director of Business and Resources.

1.3. Failure to follow Financial Procedures or financial instructions issued by the Director of Business and Resources under Financial Procedure Rules may result in corrective and disciplinary action.

1.4. Financial procedures provide the framework for managing the Council's financial affairs. Financial Procedures are supported by more detailed Financial Management Standards listed in Appendix A.

1.5. Financial Procedures and Financial Management Standards apply to every Elected Member and Officer of the Council and anyone acting on its behalf.

1.6. All Elected Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money.

1.7. The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedure Rules and Financial Management Standards and submitting any additions or changes necessary to the Full Council for approval. The Chief Finance Officer is also responsible for

reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Cabinet Members. The Chief Finance Officer is authorised to temporarily suspend Financial Procedure Rules in extreme circumstances.

1.8. Senior Officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them. Any person charged with the use or care of the Council's resources and assets should inform him or herself of the Council's requirements under Financial Procedure Rules and Financial Management Standards. Any queries should be referred to the Director Business of and Resources.

1.9. The Director of Business and Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules and Financial Management Standards that Members, Officers and others acting on behalf of the Council are required to follow.

1.10. The word 'should' in the Financial Procedure Rules and Financial Management Standards implies a duty or obligation to act in the way outlined. Where reference is made to a Senior Officer, this may be construed, depending upon the context, as his or her authorised representative.

1.11. Any proposals for changes or amendments to the Financial Procedure Rules and Financial Management Standards should be forwarded to the Director of Business and Resources for consideration.

1.12. Financial management covers all financial accountabilities in relation to the running of the Council, including the budget and policy framework.

The Role of the full Council

1.13. The Full Council is responsible for approving and revising the Policy Framework and Budget within which the Cabinet operates. The budget setting process includes the approval of Prudential Indicators as required by the CIPFA Prudential Code for Capital Finance in Local Authorities. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The role of the Council is set out in this Constitution.

The Role of the Cabinet

1.14. The Cabinet is responsible for proposing the Policy Framework and Budget to the Full Council, and for discharging Cabinet functions in accordance with the Policy Framework and Budget. The role of the Cabinet is set out in this Constitution.

Overview and Scrutiny Committee

1.15. The Overview and Scrutiny Committee is responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. The Overview and Scrutiny Committee is responsible for considering and responding to proposals from the Cabinet in respect of the budget and those plans/strategies that fall within the policy framework. The Overview and Scrutiny Committee is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Standards Committee

1.16. The Standards Committee is responsible for the promotion of ethical standards within the Council, helping to secure adherence to the Members' Code of Conduct, monitoring the operation of the Code within South Tyneside, promoting and reviewing the Whistle Blowing Policy for Members and conducting hearings following investigation and determining complaints made against Councillors in respect of alleged breaches of the Code of Conduct. The Committee reviews complaints made against Members in respect of alleged breaches of the Members' Code of Conduct.

Other regulatory committees

1.17. Planning, licensing and other regulatory committees do not exercise executive functions but exercise quasi-judicial functions through multiparty committees under powers delegated by the Full Council.

Audit Committee

1.18. The Audit Committee is a key component of the Council's corporate governance arrangements and is an important source of assurance about the organisation's arrangements for managing risk, maintaining an effective control environment and reporting on financial and other performance. In accordance with its terms of reference, the Audit Committee receives interim and end of year reports from both internal and external audit, and other information appropriate to its programme of work.

The Role of the Chief Finance Officer

1.19. The Director of Business and Resources is the Council's Chief Finance Officer and consequently has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden.

1.20. The statutory duties arise from:

1.20.1. Section 151 of the Local Government Act 1972

1.20.2. The Local Government Finance Act 1988

1.20.3. The Local Government and Housing Act 1989

1.20.4. The Accounts and Audit Regulations 2015.

1.20.5. The Local Government Act 2003

1.21. The Chief Finance Officer is responsible for:

1.21.1. the proper administration of the Council's financial affairs

1.21.2. maintaining a continuous review of the financial procedures and submitting any additions or changes necessary to the full Council for approval

1.21.3. setting and monitoring compliance with financial management standards

1.21.4. reporting, where appropriate, breaches of the financial procedures to the Council and / or Cabinet members

1.21.5. annually reviewing and updating, and monitoring compliance with, financial management standards

1.21.6. providing training for members and officers on Financial Procedures and Financial Management Standards.

1.21.7. advising on the corporate financial position and on the key financial controls necessary to secure sound financial management

1.21.8. providing financial information

1.21.9. selecting accounting policies and determining the accounting procedures and records for the Council.

1.21.10. preparing and monitoring the revenue budget and capital programme

1.21.11. treasury management.

1.21.12. ensuring that the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities

1.21.13. ensuring that Council spending plans and council tax calculations, identified in the medium-term financial plan, are based upon robust estimates.

1.21.14. ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term and

1.21.15. reporting on the adequacy of reserves and the robustness of the budget estimates when the annual budget is being considered

1.22. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council, Cabinet and external auditor if the Council or one of its officers:

1.22.1. has made, or is about to make, a decision which involves incurring unlawful expenditure

1.22.2. has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council

1.22.3. is about to make an unlawful entry in the Council's accounts.

1.23. Section 114 of the 1988 Act also requires:

1.23.1. the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally

1.23.2. the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

The role of Directors

1.24. Directors are responsible for ensuring that all staff in their Directorates or Corporate Groups are aware of the existence and content of the Council's Financial Procedures and Financial Management Standards and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their Directorates or Corporate Groups.

1.25. Directors are responsible for ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.

1.26. It is the responsibility of Directors to consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

2. Budget preparation

2.1. The Cabinet, in consultation with the Chief Finance Officer, is responsible for issuing annual guidelines to members and Directors on: -

2.1.1. preparing a detailed revenue budget for the following year;

2.1.2. preparing revenue spending plans for years 2 to 5;

2.1.3. preparing a five-year capital programme;

2.1.4. the timetable for preparing and agreeing the Council's revenue and capital budget.

2.2. The guidelines will take account of:

2.2.1. Council priorities

2.2.2. spending pressures

2.2.3. what future funding is available

2.2.4. what level of reserves are available

2.2.5. the affordability, sustainability and prudence of capital investment plans

2.2.6. legal requirements, best value and other relevant government / internal guidelines

2.2.7. cross-cutting issues (where relevant).

2.3. Directors are responsible for ensuring that budget estimates are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

3. Sound financial management

The Council is responsible for ensuring its financial management is adequate and effective, and that sound systems of risk management are in place (as required by the Accounts and Audit (England) Regulations 2015). The Authority is also responsible for ensuring that a budget monitoring system is in place, and if there is a deterioration in the Council's financial position during the year it must consider what action to take to deal with the situation (as required by the Local Government Act 2003).

4. Budget approval

4.1. The Chief Finance Officer has a duty under the Local Government Act 2003 in relation to budget setting. When the Council is deciding its

annual budget and council tax level, Members and officers must consider a report from the Chief Finance Officer on the robustness of the budget and the adequacy of the Authority's reserves. The Council's service & resource planning framework integrates service planning and budget setting processes to develop the financial strategy and to ensure that the budget setting process is priority led.

4.2. The full Council is responsible for agreeing the Council's Policy Framework and Budget (including Prudential Indicators), which will be proposed by the Cabinet.

4.3. The Council's revenue and capital budget will be proposed by the Cabinet (on the advice of the Chief Finance Officer) and will be approved by the full Council. The budget should identify allocations to named service budget holders, proposed council tax levels and how the budget will be funded.

4.4. The full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

5. Budget Transfers

5.1. During the year Cabinet and Directors may need to transfer budgets from one service area to another to reflect changed service needs or priorities to deliver the Budget Policy Framework.

5.2. A Director may transfer a budget under his or her control for amounts up to £250,000 on any one budget head to another during the financial year, subject to the agreement of the Chief Finance Officer and following discussion with the appropriate lead member where the budget transfer exceeds £100,000. For this purpose, budget head is defined as any budget line in Appendix 1A and Appendix 2A of the Medium-Term Financial Plan approved by Council.

5.3. A named service budget holder may transfer a budget under his or her control for amounts up to £100,000 on any one budget head to another during the financial year. For this purpose, named service budget holder is defined as a budget holder named in Appendix 1A and Appendix 2A of the Medium-Term Financial Plan approved by Council.

5.4. All budget transfers between the limits of £50,000 and £250,000, as set out in paragraphs 5.2 and 5.3, must be published in accordance with agreed corporate arrangements. The Chief Finance Officer must be notified of the transfer.

5.5. Budget transfers greater than £250,000 require the approval of the Cabinet, following a joint report by the Chief Finance Officer and the responsible Director. The joint report must explain the implications in the current and future financial year.

5.6. Budget transfers greater than £1,000,000 require the approval of the full Council and must be proposed by the Cabinet.

5.7. Council approval is required for any budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new service or the termination of an existing service.

5.8. A capital budget cannot be transferred to a revenue budget head.

5.9. No budget transfer relating to a specific financial year should be made after 31st March in that year without the agreement of the Chief Finance Officer.

5.10. It is the responsibility of the Directors to: -

5.10.1. notify the Chief Finance Officer of any budget transfer agreed under delegated powers as set out in paragraphs 5.2 and 5.3;

5.10.2. give prior notice to budget holders of any budget transfer affecting their service area and provide an explanation of the reason for the budget transfer; and

5.10.3. ensure that the relevant delegated decision forms are completed.

6. Budget Monitoring and the Control of Income and Expenditure

6.1. The Chief Finance Officer is responsible for: -

6.1.1. providing appropriate financial information to enable budgets to be monitored effectively

6.1.2. all payments of salaries and wages to all employees, including payments for overtime, and for payment of allowances to members

6.1.3. maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate

6.1.4. advising Directors on all taxation issues that affect the Council

6.1.5. ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts

6.1.6. agreeing arrangements for the collection of income due to the Council

6.1.7. agreeing the write-off of bad debts up to a value of £5,000 in each case, cases above £5,000 being referred to the Cabinet

having first been raised with the lead member for Resources and Innovation.

6.1.8. reporting to the Cabinet on the overall Council budget monitoring position on a quarterly basis.

6.2. The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies unless the responsible Director is authorised in this respect under the Scheme of Delegations in Part C of this Constitution.

6.3. It is the responsibility of Directors to ensure that a proper Scheme of Delegation has been established within their area and is operating effectively. The Scheme of Delegation should identify named budget holders and employees authorised to act on the Director's behalf in respect of payments, income collection and placing orders, together with the limits of their authority.

6.4. It is the responsibility of Directors to: -

6.4.1. control income and expenditure within their area;

6.4.2. monitor performance, taking account of financial information provided by the Chief Finance Officer;

6.4.3. report on spending variances within their own areas;

6.4.4. take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems; and

6.4.5. except in relation to the Tyne and Wear Pension Fund, report to Cabinet in conjunction with the Chief Finance Officer the corrective action to be taken where a budget line allocation is forecast to be exceeded by 5% or £250,000, whichever is the greater.

7. Reporting Council spending at year end

7.1. The General Purposes Committee is responsible for approving the annual audited statement of accounts.

7.2. The Chief Finance Officer is responsible for: -

7.2.1. publishing a timetable for the closure of the Council's accounts annually

7.2.2. ensuring that the Council's annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC): The Accounts and

Audit Regulations 2011 and any other relevant guidelines.

7.3. It is the responsibility of Directors to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

8. Use of Council Reserves

8.1. The Chief Finance Officer is responsible for advising the Cabinet and/or the full Council on prudent levels of reserves for the authority. This advice will be based upon an annual risk assessment of the prudent level of reserves the Council should maintain.

8.2. The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by full Council and Cabinet.

9. Systems and Procedures

9.1. Sound systems and procedures are essential to an effective framework of accountability and control.

9.2. The Chief Finance Officer is responsible for: -

9.2.1 the operation of the Council's accounting and financial systems

9.2.2 the form of accounts and the supporting financial records.

9.2.3 advising Directors on the establishment and operation of trading accounts and business units.

9.3. Any changes made by Directors to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer.

9.4. It is the responsibility of Directors to: -

9.4.1. ensure the proper operation of financial processes in their own Directorates and agree with the Chief Finance Officer any changes to these processes to meet their own specific service needs

9.4.2. ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.

9.4.3. ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation

9.4.4. ensure that staff are aware of their responsibilities under Freedom of Information and Data Protection legislation.

10. Risk Management

10.1. The Cabinet is responsible for approving the Council's risk management policy statement and approach to reviewing the effectiveness of risk management.

10.2. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

10.3. The Director of Business and Resources is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover for material risks where appropriate.

10.4. It is the responsibility of Directors to ensure there are regular reviews of risk within their areas of responsibility.

11. Internal Control

11.1. The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

11.2. It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

12. Audit Requirements

12.1. The Accounts and Audit Regulations (England) 2015 require that the Council 'must undertake an adequate and effective internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control'.

12.2. The Chief Finance Officer, as determined by the Council, will ensure that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.

12.3. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

12.4. The Council may, from time to time, be subject to audit, inspection or investigation by the external bodies such as HM Revenue and Customs, who have statutory rights of access.

12.5. The Chief Finance Officer is responsible for reporting, where appropriate, the findings of these inspections and taking relevant action to implement inspection recommendations.

13. Preventing Fraud and Corruption

13.1. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

13.2. The Director Of Business and Resources and the Director Governance and Corporate Affairs are responsible for the development, maintenance and review of an anti-fraud and anti-corruption policy.

13.3. It is the responsibility of Directors to promote the anti-fraud and anti-corruption policy within their service areas and ensure that all suspected irregularities are reported to the Chief Internal Auditor.

14. Use of Council Assets

14.1. Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

15. Treasury Management

15.1 The Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 4 of the Code

15.2 The Council will create and maintain, as the cornerstones for effective treasury management:

15.2.1 A Treasury Management Policy Statement, stating the policies, objectives and approach to the risk management of its Treasury Management activities

15.2.2 Suitable Treasury Management Practices (TMPs), setting out the way the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

15.2.3 The content of the Policy Statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Treasury Management in the Public Services – Code of Practice and Cross Sectoral Guidance Notes, subject only to amendment where necessary to reflect the circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key principles.

15.3 Council will receive reports on its Treasury Management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

15.4 The Council delegates responsibility for the implementation and regular monitoring of its Treasury Management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation's policy statement and TMPs and if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

15.5 The Council has nominated the Overview and Scrutiny Co-ordinating and Call-in Committee to be responsible for ensuring effective scrutiny of the Treasury Management strategy and policies.

16 Partnerships

16.1 The Cabinet is responsible for approving any delegation of its powers, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

16.2 The Council or the Cabinet can delegate its functions including those relating to partnerships to officers. These are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.

16.3 The Chief Executive or the appropriate Director or senior officer nominated by the Director may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.

16.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.

16.5 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

16.6 Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

PART D- RULES OF PROCEDURE

SECTION 8 - FINANCIAL PROCEDURE RULES

Appendix A - List of Financial Management Standards

FMS01. Introduction to Financial Management Standards

FMS02. Managing Budgets

FMS03. Accounting Policies

FMS04. Accounting Records and Returns

FMS05. The Annual Statement of Accounts

FMS06. Budget Format

FMS07. Revenue Budget Preparation, Monitoring and Control

FMS08. Budget and Medium-Term Financial Planning

FMS09. Capital Programmes

FMS10. Maintenance of Reserves

FMS11. Risk Management

FMS12. Internal Controls

FMS13. Audit Requirements

FMS14. Preventing Fraud and Corruption

FMS15. Assets

FMS16. Treasury Management

FMS17. Staffing

FMS18. Financial Systems and Procedures - General

FMS19. Financial Systems and Procedures - Income and Expenditure

FMS20. Taxation

FMS21. Partnerships

FMS22. External Funding

FMS23. Work for Third Parties

PART E

CODES AND PROTOCOLS

PART E – CODES AND PROTOCOLS

		Page
1.	Introduction	282
2.	Code of Conduct for Elected Members	283
2.	Dispensation Process	302
3.	Protocol for dealing with allegations of breaches of the Members Code of Conduct	308
4.	Protocol for Member/Officer Relations	328
5.	Protocol on Member Access to Information and Council documents	345
6.	Protocol on Virtual Meetings	346
7.	Protocol on Use of the Council's Resources and Support for Members	350
8.	Protocol on Press, Publicity and Publications	351
9.	Protocol on Use of Social Media by Members	353
10.	Employees Code of Conduct	358
11.	Planning Protocols	374
12.	Format and Considerations Relevant to a Hearing Before the Licensing Committee	388
13.	Guidance for Councillors on membership of Outside Bodies	391
14.	Protocol on Gifts and Hospitality	398
15.	Protocol of Councillor Exit Procedure	405
16.	Protocol between Motoring Officer of South Tyneside Council and Northumbria Police	409

PART E – CODES AND PROTOCOLS

SECTION 1 – INTRODUCTION

1.1 The purpose of these protocols is to help guide Elected Members and Officers in their respective roles within the Council, in their dealings with each other and others they come into contact with.

1.2 Given the variety and complexity of those roles and relations, the protocols are not prescriptive and may not cover all situations. They provide guidance on situations that commonly occur. They are in part a written statement of good current practice and convention but aim to promote greater clarity and certainty. They also aim to address those issues arising from the relationship between senior officers and Elected Members with special responsibilities, Cabinet members, Chairs of Committees and Scrutiny Committees.

1.3 In effective high performing authorities Elected Members and Officers work well together with trust and mutual respect for their respective roles. Elected Members and Council Officers fulfil different but complementary roles. One important feature which underpins the activities of all Elected Members when acting in their official capacity is the ethical framework. The basis of this is that people expect the Council and Council Members and Officers to maintain high standards of conduct when carrying out their responsibilities.

1.4 The Localism Act 2011 places a statutory obligation on the Council to promote and maintain high standards of conduct by its Elected Members and co-opted Members. As a result, the Council has adopted a Code of Conduct for Elected Members and Co-opted Members ("Members' Code of Conduct"). The Code is part of the Council's Constitution and can be found in Part E Section 2.

1.5 By keeping to the spirit, as well as the letter of the Member's Code of Conduct, Elected Members can be confident of maintaining the standards of conduct expected of them. It is also important that everyone involved with the Councils work, including Council Officers, members of the public, or representatives of other organisations, embrace the Code, and accept that it may sometimes determine the way Elected Members can deal with particular issues.

1.6 The guidance in the protocols will help Elected Members to keep within the Code. In addition to that it also sets out protocols to promote effective working.

1.7 The Council will periodically review the guidance to make sure it keeps pace with changes in the law or common practice. In general terms, if Elected Members are not sure about the action to take in any circumstance there is a very simple rule to follow - ask first, act later! The Monitoring Officer will be pleased to give advice and guidance to Elected Members on any part of the Code or the protocols.

PART E – CODES AND PROTOCOLS

SECTION 2 – CODE OF CONDUCT FOR ELECTED MEMBERS

1. Introduction

1.1 All councils are required to have a local Councillor Code of Conduct.

1.2 The role of councillor is a vital part of our country's system of democracy. It is important that councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors and the Council as a whole. The role of councillor should be one to which people aspire. South Tyneside Council also want individuals from a range of backgrounds and circumstances to put themselves forward to become councillors.

1.3 Councillors represent local residents, work to develop better services and deliver local change. The public have high expectations of councillors and entrust them to represent their local area; taking decisions fairly, openly, and transparently. Councillors have both an individual and collective responsibility to meet these expectations by maintaining high ethical standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

1.4 Councillors should be able to undertake their role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

1.5 This Code is intended to identify and encourage good conduct and safeguard the public's trust in local government.

1.6 Elected Members, upon election/appointment, must agree to abide by the Code of Conduct. If an Elected Member fails to comply with the requirements of the Code a complaint can be made. Details of the procedure for making a complaint and the complaint form are available on the Council's website or direct from:

Monitoring Officer
Town Hall and Civic Offices
Westoe Road
South Shields
South Tyneside
NE33 2RL

Email: monitoring.officer@southtyneside.gov.uk

2. Principles of Public Life

The principles of public life are set out in the Localism Act 2011 and in the Members' Code of Conduct at Appendix 1.

For ease of reference the principles are set out below with an explanation of their meaning*

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

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

Objectivity
In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability
Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness
Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

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

Leadership
Holders of public office should promote and support these principles by leadership and example.

**The Committee on Standards in Public Life have defined the seven principles of public life. These principles are required by the Localism Act 2011 to be incorporated into any Members' Code of Conduct*.

3. Definitions

3.1 For the purposes of this Code of Conduct, a "councillor" means an Elected Member or co-opted Member of a local authority. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

a) is a member of any committee or sub-committee of the authority, or;

b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

4. Supporting protocols and procedures

4.1 The documents contained in the Part E Codes and Protocols should be read in conjunction with the Members' Code of Conduct, including but not limited to:

- Protocol on Member/Officer Relations which sets out the respective roles of Members and Officers and how they should expect to be treated by each other.
- Protocol on Use of Social Media by Elected Members.
- Code of Conduct for Employees which forms part of the Council's conditions of service and is designed to help staff work in a way that will bring credit to themselves and the Council.
- Whistleblowing Policies to enable employees and Elected Members to raise concerns about issues of conduct without fear of reprisal.

4.2 Should there be any conflict between any of these documents in relation to Members' conduct, the Members' Code of Conduct will take precedence.

5. Personal Responsibility

15.4 Councillors accept that they have a duty to act within the law at all times. Councillors have a personal responsibility to ensure that they are aware of the rules of personal conduct and that they comply with them.

15.5 Councillors agree they must be able to justify their actions to the public. Councillors recognise that they have a duty to foster and continuously develop the public's faith in the Council and the honesty of its Councillors.

16 Committees

16.1 Councillors agree not to seek to be members of a committee if their private interests are likely to mean that they would frequently have to withdraw from the committee's consideration of issues.

16.2 A Councillor also agrees that they will not seek to be Leader or a chair of a committee if they or a body they are associated with has a substantial financial interest in the activities of the Council or a particular committee.

17 Bodies outside of the Council

17.1 Councillors agree to apply the standards and rules they observe in Council meetings to their behaviour at all the meetings they attend as a representative of the Council unless the Code of Conduct of that other body is in conflict with the Council's Members' Code of Conduct, in which case the Code of Conduct of the external body shall take precedence.

18 Purpose of the Code of Conduct

18.1 The purpose of this Code of Conduct is to assist all councillors in modelling the behaviour that is expected of them, to provide a personal check and balance reference point, and to set out the type of conduct that could lead to action being taken against them. It is also to protect councillors, the public, Council Officers and the reputation of local government as a whole. It sets out general principles of conduct expected of all councillors and the specific obligations in relation to standards of conduct. The fundamental aim of the Code of Conduct is to create and maintain public confidence in the role of councillor and South Tyneside Council.

19 General principles of councillor conduct

19.1 Everyone in public office at all levels; all who serve the public or deliver public services, including councillors and Council Officers, should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

19.2 Building on these principles, the following general principles have been developed specifically for the role of councillor.

19.3 In accordance with the public trust placed in local councillors, on all occasions:

- A councillor must act with integrity and honesty;
- A councillor must act lawfully;
- A councillor must treat all persons fairly and with respect; and
- A councillor must lead by example and act in a way that secures public confidence in the role of councillor.

19.4 In undertaking the role of councillor:

- A councillor must impartially exercise their responsibilities in the interests of the local community;
- A councillor must not improperly seek to confer an advantage, or disadvantage, on any person;
- A councillor must avoid conflicts of interest;
- A councillor must exercise reasonable care and diligence; and

- A councillor must ensure that public resources are used prudently in accordance with the Council's requirements and in the public interest.

20 Application of the Code of Conduct

20.1 This Code of Conduct applies to all South Tyneside councillors as soon as they sign their declaration of acceptance of the office of councillor or attend their first meeting as a co-opted member and continues to apply to them until they cease to be a councillor.

20.2 This Code of Conduct applies to when:

- A councillor is acting in their capacity as a councillor, conducting the business of South Tyneside Council and/or as a representative of South Tyneside Council;

- A councillor is claiming to act as a councillor, claiming to conduct the business of South Tyneside Council and/or as a representative of South Tyneside Council;

- A councillor gives the impression of conducting the business of South Tyneside Council and/or as a representative of South Tyneside Council;

- A councillor is giving the impression that they are acting as a councillor and/or as a representative of South Tyneside Council;

- A councillor refers publicly to their role as a councillor or uses knowledge they could only obtain in their role as a councillor.

20.3 The Code of Conduct applies to all forms of communication and interaction, including:

- at face-to-face meetings;

- at online or telephone meetings;

- in written communication;

- in verbal communication;

- in non-verbal communication; and

- in electronic and social media communication, posts, statements and comments (directly or indirectly). Councillors should note that postings made when using social media include, for example, Twitter, Facebook and Instagram are subject to the Code.

20.4 Councillors are expected to uphold high standards of conduct and show leadership at all times.

20.5 The Council's Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and councillors are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

21 Standards of Councillor conduct

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

21.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

22 General Conduct

12.1 RESPECT AND DECENCY

Councillors must treat other councillors and members of the public with respect and decency.

Councillors must treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and decency and respect the role they play.

As a councillor:

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. A councillor can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Councillors should not, however, subject individuals, groups of people or organisations to personal attack.

Decency means behaviour that conforms to accepted standards of morality or respectability, behaviour that is good, moral, and acceptable in society.

As much as we hope to like everyone we meet, it often simply is not the case. However, a Councillor should always conduct themselves in a civil and respectful manner, even if they dislike the person they are dealing with.

In their contact with the public, other councillors and Council Officers, a councillor should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, a councillor has a right to expect respectful behaviour from the public, other councillors and Council Officers. If members of the public, Elected Members or Officers are being abusive, intimidatory or threatening a councillor is entitled to stop any conversation or interaction in person or online and report them to the Council, the relevant social media provider or the police.

Where this applies to fellow councillors action could then be taken under the Code of Conduct, and Council Officers, where concerns should be raised in line with the Council's Member / Officer protocol (Part E Section 4)

12.2 BULLYING, HARASSMENT AND DISCRIMINATION

A councillor must not bully any person (directly or indirectly).

A councillor must not harass any person (directly or indirectly).

A councillor must promote equalities and must not discriminate unlawfully against any person.

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 (whether directly or indirectly), in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

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.

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.

The Equality Act 2010 places specific duties on local authorities. Councillors 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.

12.3 IMPARTIALITY OF OFFICERS OF THE COUNCIL

A councillor must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, South Tyneside Council.

Officers work for the Council 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. Councillors can question and challenge 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, a Councillor must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

12.4 CONFIDENTIALITY AND ACCESS TO INFORMATION

A councillor must not disclose information:

- **given to them in confidence by anyone**

- **acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - **they have received the consent of a person authorised to give it;**

  - **they are required by law to do so;**

  - **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**

  - **the disclosure is:**
    - **reasonable and in the public interest; and**
    - **made in good faith and in compliance with the reasonable requirements of the Council; and**
    - **The councillor has consulted the Monitoring Officer prior to its release.**

A councillor must not improperly use knowledge gained solely as a result of their role as a councillor for the advancement of themselves, their friends, their family members, their employer or their business interests.

A councillor must not prevent anyone from getting information that they are entitled to by law.

South Tyneside Council must work openly and transparently and ensure as far as possible Council proceedings and printed materials are open to the public, except in certain legally defined circumstances. A councillor 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 Council must be treated in a confidential manner.
Examples include personal data relating to individuals or information relating to ongoing negotiations.

12.5 DISREPUTE

A councillor must not bring their role as Councillor or their local authority into disrepute.

A councillor is trusted to make decisions on behalf of their community and their actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. A councillor should be aware that their actions might have an adverse impact on them, other councillors and/or South Tyneside Council and may lower the public's confidence in their or the Council's ability to discharge their or the Council's functions.

For example, behaviour that is considered dishonest and/or deceitful can bring South Tyneside Council into disrepute.

Councillors are able to hold the Council and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council but in doing so must remain civil and continue to adhere to other aspects of this Code of Conduct.

12.6 USE OF POSITION

A councillor must not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.

A councillor's position as a member of South Tyneside Council provides them with certain opportunities, responsibilities and privileges, and they make choices all the time that will impact others. However, a councillor should not improperly take advantage of these opportunities to further their own or others' private interests or to disadvantage anyone unfairly.

Where a councillor has been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, the councillor must not take part in that scrutiny process except to the extent they may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

12.7 USE OF COUNCIL RESOURCES AND FACILITIES

A councillor must not misuse council resources.

A councillor, when using the resources of the Council or authorising their use by others:

- **Must act in accordance with the Council's requirements; and**

- **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 Council or of the office to which the councillor has been elected or appointed.**

A councillor may be provided with resources and facilities by the Council to assist them in carrying out their duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as mobile phone and computers
- access to transport
- access and use of Council buildings and rooms.

These are given to councillors to help them 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, where applicable, the Council's own policies regarding their use.

12.8 COMPLYING WITH THE CODE OF CONDUCT

A Councillor must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this Code of Conduct and which is listed in Annex C to this Code.

A councillor must undertake any Code of Conduct training provided by the Council.

A councillor must cooperate with any Code of Conduct investigation and/or determination.

A councillor must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

A councillor must comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.

It is extremely important for a councillor to demonstrate high standards, for them to have their actions open to scrutiny and for them not to undermine public trust in the Council or its governance. Councillors should not bring trivial or malicious allegations under this Code of Conduct. If a councillor does not understand or is concerned about the Council's processes in handling a complaint, they should raise this with the Monitoring Officer.

13 Protecting your reputation and the reputation of the Council

13.1 INTERESTS

A councillor must register and declare all disclosable interests – including disclosable pecuniary interests and personal interests.
A councillor must register their pecuniary and personal interests so that the public, Council employees and fellow councillors know which of their interests may give rise to a conflict of interest.

The Register of Interests is a public document that can be consulted when (or before) an issue arises. The register also protects a councillor by allowing them to demonstrate openness and a willingness to be held accountable.

A councillor is personally responsible for deciding whether or not they should declare 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 declared by a councillor 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.

Members should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring interests and the process for a dispensation. If in doubt, a councillor should always seek advice from the Monitoring Officer.

14 GIFTS AND HOSPITALITY

A councillor must 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 their part to show favour from persons seeking to acquire, develop or do business with South Tyneside Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for every Councillor in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered, having regard to how it might be perceived.

A councillor must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

A councillor must register with the Monitoring Officer any significant gift or hospitality that a councillor has been offered but has refused to accept.

In order to protect their position and the reputation of South Tyneside Council, a councillor should exercise caution in accepting any gifts or hospitality which are (or which a councillor reasonably believes to be) offered to them because they are a councillor. 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 impolite or discourteous in which case a councillor could accept it but must ensure it is publicly registered. However, a councillor does not need to register gifts and hospitality which are not related to their role as a councillor, such as Christmas gifts from their friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with the duties as a councillor. If a councillor is unsure, do contact the Monitoring Officer for guidance.

As part of their civic duties the Mayor and/or Deputy Mayor will receive a number of gifts and offers of hospitality. The provisions of this Code are applicable to all members of the Authority and apply equally to the Mayor and Deputy Mayor, insofar as they are not inconsistent with the following provisions. There is likely to be proper reason for accepting a civic gift or hospitality by the Mayor and/or Deputy Mayor as there is likely to be a commensurate benefit for the Authority which would not have been available but for the acceptance of that gift or hospitality. Acceptance of civic hospitality provided by another public authority can confer an advantage on the Authority, such as an opportunity to progress the business of the Authority expeditiously or to canvass the interests of the Authority and the South Tyneside area. As a general principle all gifts made to the Mayor and/or Deputy Mayor during the exercise of their civic duties belong to the Council and must be passed to the Civic Support and Events Officer as soon as possible. However, small token gifts, e.g. estimated to be below £25.00, received by the Mayor/Deputy Mayor in their civic capacity which are personalised, e.g. a cup with their names on it, flowers, etc may be retained by the Mayor/Deputy Mayor. Offers of hospitality to the Mayor/ Deputy Mayor in their civic capacity will normally be made through the Mayor's office and fall outside of this provision for proper and legitimate reasons. In those cases, details of the hospitality received will be recorded and retained by the Mayor's Office. In the event of gifts or hospitality being offered to the Mayor/ Deputy Mayor other than in their civic capacity, i.e. as members of the Council or as private individuals, the Mayor/ Deputy Mayor must deal with such offers in the same way as any other member of the Council.

PART E CODES AND PROTOCOLS

SECTION 2 – CODE OF CONDUCT FOR ELECTED MEMEBRS

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness
Holders of public office should act solely in terms of the public interest.

Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

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.

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

Honesty
Holders of public office should be truthful.

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.

PART E CODES AND PROTOCOLS

SECTION 2 – CODE OF CONDUCT FOR ELECTED MEMEBRS

Appendix B

Registering disclosable pecuniary and personal interests

1. Within 28 days of this Code of Conduct being adopted by the Council or the date of election or appointment to office (where that is later) a councillor must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests), Table 2 (Other Registerable Interests) and Table 3 (Personal Interests). Disclosable Pecuniary Interests means issues relating to money and finances.

2. A councillor must ensure that their 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.

3. A 'sensitive interest' is an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

4. Where a councillor has a 'sensitive interest' they must notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Declaring interests

5. Where a matter arises at a meeting which directly relates a councillors Disclosable Pecuniary Interest, they must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. If it is a 'sensitive interest', they do not have to declare the nature of the interest, just that they have an interest.

6. Where a matter arises at a meeting which directly relates to one of the councillors Other Registerable Interests, they must declare the interest. They 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', again you do not have to declare the nature of the interest.

7. Where a matter arises at a meeting which directly relates a councillors Personal Interest, they must declare the interest. However, they can continue to participate in any discussion and vote on the matter and can remain in the room without having been granted a dispensation. If it is a 'sensitive interest', they do not have to declare the nature of the interest, just that they have an interest.

8. Where a matter arises at a meeting which *directly relates* to a councillor's financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, the councillor must declare the interest. They 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 declare the nature of the interest.

9. Where a matter arises at a meeting which *affects* –

    a) A councillors own financial interest or well-being;
    b) a financial interest or well-being of a friend, relative, close associate; or
    c) a body that a councillor needs to declare under their Disclosable Pecuniary Interests

    a councillor must disclose the interest.

10. Where the matter affects the Member's financial interest or well-being:
    a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and
    b. a reasonable member of the public knowing all the facts would believe that it would affect the councillor's view of the wider public interest

    the councillor must declare the interest. The councillor 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 they have been granted a dispensation. If it is a 'sensitive interest', the do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. Any unpaid directorship
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 South Tyneside. '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 South Tyneside for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is South Tyneside 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.

Important Notice

Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this Code of Conduct.

Table 2: Other Registerable Interests

Any Body of which the councillor is a member or in a position of general control or management and to which the councillor is appointed or nominated by the Council;	
Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which the councillor is a member or in a position of general control or management.	

Table 3: Personal Interests

Under the Council's Code of Conduct a councillor must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that

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

A Members registration of personal interests should be guided by this duty, and they should give the Monitoring Officer who is responsible for the Register of Members' Interests any information he or she requests in order to keep that Register up to date together with any other information which they consider should be entered in the Register even of the interest does not fall within the definition of Table 1 or Table 2 above.

DISPENSATIONS PROCESS AND FORM

Introduction

1. The Standards Committee is responsible for determining requests for dispensation by Councillors of South Tyneside Metropolitan Borough Council under Section 33(2) Localism Act 2011.

2. This guide explains:

    a. the purpose and effect of dispensations;

    b. the procedure for requesting dispensations; and

    c. the criteria which are applied in determining dispensation requests the terms of dispensations.

Purpose and effect of dispensations

3. In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited under the Code of Conduct or by law. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

Process for making requests

4. Any Councillor who wishes to apply for a dispensation must fully complete the attached form below and submit it to the Monitoring Officer **at least 15 working days** before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances.

5. In order to avoid delay Councillors must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary.

6. A request for dispensation must be made on an individual basis. Group applications are not permitted.

Consideration by the Standards Committee

7. The Standards Committee will consider requests for a dispensation referred by the Monitoring Officer in the order in which they were received by the Monitoring Officer having regard to the criteria set out in paragraph 13.
8. Meetings of the Standards Committee will normally be open to the public and any Councillor who has submitted a request will have the opportunity to attend and make representations in support of their application.

9. In the case of a Disclosable Pecuniary Interest, the Standards Committee may grant a dispensation if they consider that:

    a. without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate)

    b. without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business

    c. granting the dispensation is in the interests of persons living in the Council's area without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive; or

    d. it is otherwise appropriate to grant a dispensation

10. The provisions of paragraph 9 shall also apply in the same way in the case of an Ordinary Pecuniary Interest, subject to the substitution of “the Code of Conduct” for “Section 31(4) Localism Act 2011” in that paragraph.

11. The terms of any dispensation shall be in accordance with paragraph 14.

12. The Monitoring Officer will notify the Councillor of the Committee’s decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

<u>Criteria for determination of requests</u>

13. In reaching a decision on a request for a dispensation the Standards Committee will take into account:

    a. the nature of the Councillor’s prejudicial interest

    b. the need to maintain public confidence in the conduct of the Council’s business

    c. the possible outcome of the proposed vote

    d. the need for efficient and effective conduct of the Council’s business; and

    e. any other relevant circumstances.

<u>Terms of dispensations</u>

14. Dispensations may be granted:

    a. for one meeting; or

    b. for a period not exceeding 4 years

15. Dispensations may allow the Councillor:

    a. to participate, or participate further, in any discussion of the matter at the meeting(s); and/or

    b. to participate in any vote, or further vote, taken on the matter at the meeting(s)

16. If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

Disclosure of decision

17. Any Councillor who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

18. A copy of the dispensation will be kept with the Register of Councillors' Interests and published on the Council's website.

South Tyneside Council

Standards Committee Dispensation Request Form

Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying guidance "Dispensations Process and Form". If you need any help completing this form, please contact the Monitoring Officer.

Your name
……

Decision-making body in respect of which you require a dispensation

……

Details of your membership of that body

……

The business for which you require a dispensation (refer to agenda item number if appropriate)

……

Details of your interest in that business

……

Date of meeting or time period (up to 4 years) for which dispensation is sought

……

Dispensation requested to participate, or participate further, in any discussion of that business by that body Yes ☐ No ☐

Dispensation requested to participate in any vote, or further vote, taken on that business by that body Yes ☐ No ☐

Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)

……

……

……

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……

……

……

Signed: …… **Dated:** ……..

Please send your completed form to: The Monitoring Officer, Town Hall and Civic Offices, Westoe Road, South Shields NE33 2RL or by email to: monitoring.officer@southtyneisde.gov.uk

You will normally receive notification of the Monitoring Officer's decision within 5 working days of the decision.

PART E CODES AND PROTOCOLS

SECTION 2 – CODE OF CONDUCT FOR ELECTED MEMEBRS

Annex C

Associated Protocols

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this Code of conduct pursuant to paragraph 6 of the Code:

- Code of Conduct (Part E Section 2)
- Protocol for dealing with allegations of breaches of the Member's Code of Conduct (Part E Section 3)
- Protocol for Member/Officer Relations (Part E Section 4)
- Protocol on Member Access to Information and Council documents (Part E Section 5)
- Protocol on Virtual Meetings (Part E Section 6)
- Protocol on Use of the Council's Resources and Support for Members (Part E Section 7)
- Protocol on Press, Publicity and Publications (Part E Section 8)
- Protocol on Use of Social Media by Members (Part E Section 9)
- Planning Protocols (Part E Section 11)
- Format and considerations relevant to a hearing before the Licensing Committee (Part E Section 12)
- Guidance for Councillors on membership of Outside Bodies (Part E Section 12)
- Protocol on Gifts and Hospitality (Part E Section 14)
- Protocol of Councillor Exit Procedure (Part E Section 15)
- Protocol between Motoring Officer of South Tyneside Council and Northumbria Police (Part E Section 16)

PART E – CODES AND PROTOCOLS

SECTION 3 – PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

1. INTRODUCTION

1.1. The purpose of this Protocol is to set out how the Council will deal with complaints of misconduct against Members, co-opted members of committees and sub-committees, and advisors to committees, sub-committees and forums.

1.2. The Council's Monitoring Officer is responsible for overseeing the operation of this Protocol. The Monitoring Officer can be contacted as follows: -

Monitoring Officer
South Tyneside Council
Town Hall and Civic Offices
Westoe Road
South Shields
South Tyneside
NE33 2RL

E-mail : monitoring.officer@southtyneside.gov.uk

1.3 The Council has adopted a Members' Code of Conduct (Part E Section 2). This applies to Members and Co-opted Members of Committees who have voting rights.

1.4 The Council has also adopted additional local codes or protocols or set other standards of conduct ("local protocols") that it expects of Members, co-opted members of committees and sub-committees (whether or not they have voting rights), and advisors to committees, sub-committees and forums. There are also other legislative and legal requirements that apply to such persons.

1.5 The Council is responsible for dealing with written complaints that a Member or co-opted member has contravened the Members' Code of Conduct. The Monitoring Officer deals with the complaints initially. The Council has delegated responsibility of findings and hearings to the Standards Committee.

1.6 It is possible that contravention of the local protocols may also amount to a contravention of the Members' Code of Conduct. In which case, a written complaint could be made to the Council.

1.7 The person responsible for operating this Protocol in any particular case may depart from the provisions of this Protocol for good reasons after consulting the Chair of the Standards Committee and the Monitoring Officer.

2. MAKING A COMPLAINT

2.1 Complaints may be made by members of the public, other organisations, Members or officers of the Council. Complaints must specify details of the alleged breach of the Code and provide details of any evidence available to support the complaint. Complaints should be made in writing to the Monitoring Officer as soon as practicable.

2.2 If a complaint is made to a Member directly, they should consult the Monitoring Officer. Similarly, if complaints are made to other officers, they should be passed to the Monitoring Officer as soon as possible.

2.3 All Members and Officers of the Council have a duty to co-operate with any requirement of the Monitoring Officer, or other persons in the conduct of an investigation.

3 PROCESSING A COMPLAINT

3.1 Whenever the Monitoring Officer receives a complaint s/he will first seek to resolve the matter without the need for formal investigation. The Monitoring Officer may consult the Chair of the Standards Committee and/or the Independent Person where appropriate in order to achieve an informal resolution. The Monitoring Officer will continue to seek an informal resolution of the matter throughout the processes described in this Protocol.

3.2 The Monitoring Officer will provide the subject member with the contact details of the Independent Person at the same time as s/he informs the subject member that a complaint has been received. The subject member is entitled to consult with the Independent Person at any stage of the processes set out in this Protocol.

3.3 The Monitoring Officer must make such informal inquiries and investigations as s/he thinks fit in order to assess how a complaint should be dealt with. In particular, the Monitoring Officer may provide full details of the complaint to the subject member in order that they may respond to the allegation without the need for a formal investigation. If a complaint cannot be informally resolved, the Monitoring Officer may take such of the following actions in respect of a complaint as s/he feels appropriate, taking account of the criteria set out in Annex B:-

a) Reject the complaint (following consultation with the Independent Person and/or the Independent Chair of Standards Committee, where the Monitoring Officer feels it appropriate);
b) Investigate the complaint following, where s/he deems it appropriate, consultation with the Independent Person and/or the Independent Chair of Standards Committee;
c) Refer the complaint to the Standards Committee for a decision on whether to investigate.

3.4 The procedure for the investigation of complaints by or on behalf of the Monitoring Officer is set out in Annex A. The procedure for the formal hearing of complaints

by the Standards Committee, including the sanctions available should it be found that the Code of Conduct has been breached, is set out in Annex C. Procedures for the review of decisions are set out in Annex D. A protocol on publicity for complaints is set out at Annex E.

4 MONITORING THE OPERATION OF THIS PROTOCOL

4.1 The Monitoring Officer will submit a report at least every six months to the Standards Committee setting out on an anonymous basis details of matters dealt with under this Protocol.

PART E – CODES AND PROTOCOLS

SECTION 3 - PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

ANNEX A

Procedure for Investigations by the Monitoring Officer

1. Interpretation

1.1. 'Member" means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's representative.

1.2. 'Investigating Officer" means the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer, and his or her representative).

1.3. "The Matter" is the subject matter of the Investigating Officer's report.

1.4. 'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.

2. Action Following Decision to Investigate Allegation

2.1. Appointment of Investigating Officer

Where the Monitoring Officer or the Standards Committee, as the case may be, decides that an allegation should be investigated, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation and produce a report thereon. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external Investigating Officer.

The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

2.2. Notification of Investigation

The Monitoring Officer will notify in writing the Member, the complainant, the Chair of the Standards Committee and the Independent Person that an investigation is to be undertaken.

3. Conduct of Investigation

3.1. Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare a report which would provide the Standards Committee with sufficient information to determine whether the Member

has acted in breach of the Code of Conduct and, where there has been a breach of the Code of Conduct, whether any action should be taken in respect of the Member or in consequence of the breach, and what any such action should be.

3.2. Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable the Standards Committee to come to a considered decision on the allegation.

3.3. Additional Matters

Where a Member has any unresolved complaints against them, for instance because they ceased to be a member before a complaint under the former procedure was dealt with, the Monitoring Officer may, following consultation with the Chair of the Standards Committee, instruct the Investigating Officer to investigate that complaint.

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct or local protocol by the Member other than the breach which he/she is currently investigating, the Investigating Officer shall report the matter to the Monitoring Officer who will provide the Member with details of the matter and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Monitoring Officer will then determine whether to investigate the additional matter.

4. <u>The Draft Report</u>

4.1. When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in Paragraph 3.1, or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft report setting out:

4.1.1. the details of the allegation;

4.1.2. the relevant provisions of the Code of Conduct and any relevant local Protocols

4.1.3. the Member's response to the allegation;

4.1.4. the relevant information, advice and explanations which he/she has obtained in the course of the investigation;

4.1.5. details of any documents relevant to the matter;

4.1.6. details of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;

4.1.7. details of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;

4.1.8. a statement of his/her draft findings of fact;

4.1.9. his/her conclusion as to whether the Member has or has not failed to comply with the Code of Conduct for Members or a local protocol, and

4.1.10. any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach.

4.2. The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the Investigating Officer will present a final report to the Standards Committee once he/she has considered any comments received on the draft report.

4.3. The Investigating Officer shall then send a copy of his/her draft report in confidence to the Member, the person making the allegation and the Monitoring Officer, and request that they send any comments thereon to him/her within 7 days or such longer period as may reasonably be agreed by the Investigating Officer.

5. <u>The Final Report</u>

5.1. After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received and produce and send to the Monitoring Officer his final report.

5.2. The final report should state that the report represents the Investigating Officer's final findings and will, unless an informal resolution of the complaint is achieved, be presented to the standards committee, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, and notes of interviews with witnesses.

5.3. The Monitoring Officer shall then send a copy of the final report to the Member, the complainant and the Independent Person. The Monitoring Officer must consider whether informal resolution of the complaint is still possible, consulting as s/he feels appropriate with the Chair of the Standards Committee and the Independent Person.

5.4. If the Monitoring Officer concludes that informal resolution is not possible, s/he must advise the Member and the complainant of the following:

5.4.1. where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, that he/she will close the matter, unless following consultation with the Independent Person s/he considers that the report should be referred to the Standards Committee to decide if a hearing is nevertheless required; and

5.4.2. where the report concludes that there has been a failure by the Member to comply with the Code of Conduct for Members or with a local protocol, he/she will refer the report to the Standards Committee for a formal hearing.

5.5. Where the Standards Committee considers the report in accordance with Paragraph 5.4.1 above, it shall, after considering any views put forward by the Independent Person, make one of the following findings:

5.5.1. That it accepts the Investigating Officer's finding that the Member has not failed to comply with the Code of Conduct for Members as set out in the allegation; or

5.5.2. That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the authority's adopted Procedure for Standards Hearings (Annex C).

5.6. Where the Standards Committee finds no failure to comply with the Code of Conduct, the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer's report to the Member and to the Person who made the allegation. The Monitoring Officer must ask the Member whether s/he agrees to the publication of a notice of the finding.

5.7. Where the Standards Committee finds that the matter should be considered at a full hearing or the Investigating Officer's report contains a finding that the Member did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the authority's adopted Procedure for Standards Hearings (Annex C).

PART E – CODES AND PROTOCOLS

SECTION 3 - PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

ANNEX B

Criteria for consideration by the Monitoring Officer when what action to take in respect of a complaint.

The following criteria will be taken into account by the Monitoring Officer, or the Standards Committee, as the case may be, in deciding what action, if any, to take in respect of a complaint received alleging a failure by a member of the Council to follow the Code of Conduct:

1. **Has the complainant submitted enough information to satisfy the Monitoring Officer (or the Standards Committee if appropriate) that the complaint should be referred for investigation or other action?**
   If not:
   The information provided is insufficient to make a decision. Unless, or until, further information is received, no further action should be taken on the complaint.

2. **Is the complaint about someone who is no longer a member of the Council, but is a member of another authority? If so, should the complaint be referred to the monitoring officer of that other authority?**
   If yes:
   The complaint should be referred to the monitoring officer of that other authority to consider.

3. **Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**
   If yes:
   There may be nothing more to be gained by further action being taken.

4. **Is the complaint about something which happened so long ago that there would be little benefit in taking action now?**
   If yes:
   Further action may not be warranted.

5. **Does the complaint appear too trivial to justify the cost or inconvenience of further action?**
   If yes:
   Further action will not normally be warranted.

6. **Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?**
   If yes:

Further action will not normally be warranted.

7. Is the complaint anonymous?

If yes:

No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter

PART E – CODES AND PROTOCOLS

SECTION 3 - PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

ANNEX C

Procedure for Standards Hearings

1. Introduction

1.1. This Annex details the procedure to be adopted for the hearing of complaints by the Standards Committee of South Tyneside Council ('the Council'), where an investigation has been completed.

1.2. The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member.

1.3. The Investigating Officer means the Monitoring Officer or other person appointed by the Monitoring Officer to conduct a local investigation in relation to a matter referred to the Monitoring Officer for local investigation.

1.4. References to Monitoring Officer include any other person appointed by the Monitoring Officer to carry out the functions of the Monitoring Officer.

2. Legal Advice to the Standards Committee

2.1. Where the Monitoring Officer also takes the role of the Investigating Officer, he/she must arrange for a separate legal adviser for the Standards Committee in respect of the allegation.

3. Notifying the Member and Complainant

3.1. The Monitoring Officer shall send a copy of the report to the Member, the Complainant and the Independent Person, making the provision of the report conditional upon an appropriate undertaking of confidentiality.

3.2. The Monitoring Officer will ask for a written response from the Member, stating whether or not s/he:

3.2.1. disagrees with any of the findings of fact in the report, including the reasons for any disagreements

3.2.2. wants to be represented, at his/her own expense, at the hearing by a solicitor, barrister or any other person

3.2.3. wants to give evidence to the Standards Committee, either verbally or in writing

3.2.4. wants to call relevant witnesses to give evidence to the Standards Committee

3.2.5. wants any part of the hearing to be held in private

3.2.6. wants any part of the report or other relevant documents to be withheld from the public

3.3. The Monitoring Officer will also inform the Member that if, at the meeting of the Standards Committee, s/he seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Standards Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

3.4. Upon receipt, the Member's response shall be forwarded to the Investigating Officer, who the Monitoring Officer will invite to comment, on the Member's response to the issues specified in 3.2 above.

3.5. The Monitoring Officer will also seek the views of the Independent Person on the report and on any action the Independent Person feels should be taken in respect of it.

3.6. Upon receipt of the responses, the Monitoring Officer will discuss the responses of the Member, the Investigating Officer and the Independent Person with the Chair of the Standards Committee.

3.7. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Standards Committee, following advice from the legal adviser, may limit the number of witnesses, if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or else will not provide evidence that will assist the Committee to reach its decision.

3.8. Nothing in this procedure shall limit the Chair of the Standards Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Standards Committee to reach its decision.

3.9. The Chair of the Standards Committee, in consultation with the legal adviser will then:

3.9.1. confirm a date, time and place for the hearing, which must be within three months from the date that the report was completed;

3.9.2. confirm the main facts of the case that are agreed

3.9.3. confirm the main facts that are not agreed

3.9.4. confirm which witnesses will give evidence

3.9.5. outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private and

3.9.6. request the Monitoring Officer to provide this information, with the Agenda, to everyone in the hearing at least one week before the proposed date of the hearing

4. The Standards Committee

4.1. The Standards Committee shall decide, on the balance of probability, whether the grounds of the complaint are upheld. It shall do so by considering the report and, where appropriate, written or oral representations made by the Member, and any additional relevant information from the Investigating Officer or witnesses.

4.2. Each Councillor Standards Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast.

4.3. The meeting of the Standards Committee will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

5. Procedure at the Hearing

5.1. The initial order of business at the meeting shall be as follows:

5.1.1. Quorum for the Standards Committee shall be three

5.1.2. declarations of interest

5.1.3. consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present

5.1.4. introductions

5.1.5. any representation from the Investigating Officer and/or the Member as to reasons why the Standards Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Standards Committee decides that it will not exclude press and public, the Corporate Lead, Legal and Governance shall at this point provide copies of the agenda and reports to any members of the press and public who are present.

5.2. The purpose of the hearing is to test the robustness of the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Standards Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Standards Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

5.3. The Standards Committee may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Investigating Officer and the Member.

5.4. The procedure at the hearing will be as follows, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting.

5.4.1. Examination of report and written representations

The Panel will consider the report together with any written response from the Member to the report. The Committee may require the Investigating Officer to answer questions put to him/her by members regarding the contents of the report.

5.4.2. Oral evidence

If there is any disagreement as to the facts of the case, the Investigating Officer will be invited to make any necessary representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Member, will not be permitted to directly question the Investigating Officer or the witnesses he/she calls. If the Member wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair.

The Member will then be invited to make any necessary representations to support their version of the facts, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Investigating Officer will not be permitted to directly question the Member or the witnesses he/she calls. If they wish to challenge any oral evidence being presented, then these questions must be directed through the Chair.

5.5. Where the Member seeks to dispute any matter in the report which he/she had not given notice of intention to dispute in his/her written statement in response, the Investigating Officer shall draw this to the attention of the Standards Committee. The Standards Committee may then decide:

5.5.1. not to admit such dispute but to proceed to a decision

5.5.2. to admit the dispute, but to invite the Investigating Officer to respond

5.5.3. to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute

5.6. Where appropriate the Investigating Officer will make representations on behalf of the Complainant to the Standards Committee.

5.7. The Standards Committee may adjourn the hearing on one occasion only to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

6. Decision by the Standards Committee

6.1. The Standards Committee will consider in private session which of the following findings to adopt:

6.1.1. that there is no evidence of any failure to comply with the Code of Conduct

6.1.2. that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken

6.1.3. that the Member has failed to comply with the Code of Conduct and that a sanction should be imposed. The available sanctions are:-

6.1.3.1 Issuing a formal censure by the Committee;

6.1.3.2 Recommending to Council the issue of a formal censure by the Council

6.1.3.3 Recommending to Council that access to Council facilities be restricted

6.1.3.4 Recommending to Council that access to Council buildings be restricted

6.1.3.5 Recommending to Council that access to Council Officers be restricted

6.1.3.6 Recommending to Council that the member's attendance at events on behalf of the Council be restricted

6.1.3.7 Referral of its findings to Council for information

6.1.3.8 Publication of its findings by such means as the Committee thinks fit

6.1.3.9 Recommending to Council that the member be removed from any or all Committees or Sub-Committees

6.1.3.10 Recommending to Council that the member be removed from being the Chair or vice-chair of any Committees or sub-committees

6.1.3.11 Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities

6.1.3.12 Recommending to Council that the member be removed from all outside appointments to which s/he has been appointed or nominated by the Council

6.1.3.13 Instructing the Monitoring Officer to offer training to the member.

6.2. In deciding what penalty (if any) to set, the Standards Committee will consider all relevant circumstances and must take into account any views expressed by the Independent Person.

6.3. The Standards Committee will then resume the public session and the Chair will announce the decision of the Panel and the reasons for that decision.

6.4. If the matter is a complicated one, where the complaint has a number of aspects, the Standards Committee can decide to consider the evidence and reach a finding on each aspect separately.

6.5. The Standards Committee will then consider in open session whether there are any recommendations which it wishes to make arising from consideration of the allegation.

7. Notice of findings

7.1. The Monitoring Officer will make the decision of the Committee available in writing by the end of the working day following the day of the hearing.

7.2. The Monitoring Officer shall also arrange for a summary of the findings to be published as may be directed by the Standards Committee.

7.3. Where the Standards Committee determines that there has not been a breach of the Code of Conduct, the notice specified in paragraph 7.2 shall:

7.3.1. state that the Standards Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding and

7.3.2. not be published if the Member so requests.

7.4. Where the Standards Committee determines that there has been a failure to comply with the Code of Conduct, but no action is required, the notice specified in paragraph 7.2 shall:

7.4.1. state that the Standards Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure

7.4.2. specify the details of the failure; and

7.4.3. give reasons for the decision reached

7.5. Where the Standards Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified in paragraph 7.2 shall:

7.5.1. state that the Standards Committee found that the Member had failed to comply with the Code of Conduct

7.5.2. specify the details of the failure

7.5.3. give reasons for the decision reached; and

7.5.4. specify the sanction imposed

7.6. Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

8. Confidentiality and disclosure of information

8.1. Where the Chair of the Standards Committee considers that the report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Standards Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

8.2. The Hearing will be held in public except for those parts of its proceedings which involve exempt information and during the deliberations of the Standards Committee referred to in Paragraph 6.1.

PART E – CODES AND PROTOCOLS

SECTION 3 - PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

ANNEX D

Review of Decisions

1. If a complainant is aggrieved by a decision by the Monitoring Officer or Deputy Monitoring Officer to either;

a) not investigate a complaint; or

b) not refer it to Standards Committee where it has been investigated with a finding of no failure to comply with the Code;

then the Complainant may request the Monitoring Officer or Deputy Monitoring Officer, as the case may be, to reconsider his/her decision.

2. The Monitoring Officer or Deputy Monitoring Officer, as the case may be, will then consult the Independent Person and the Chair of the Standards Committee, and take their views into account, before deciding whether to uphold or vary his/her original decision.

3. If a Member is aggrieved by a finding of Standards Committee that they have failed to comply with the Code, or with the sanction imposed, they may request a review by an Independent Person from another local authority.

4. The Monitoring Officer will supply such Independent Person with a copy of the report and of the full decision of the Standards Committee in order that they may carry out their review.

5. If the Independent Person comes to a different view from the original finding or sanction, the Standards Committee will review its original decision, taking those views into account.

PART E – CODES AND PROTOCOLS

SECTION 3 - PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT

ANNEX E - Media Protocol

1. Introduction

1.1 This Protocol guides all Members of the Council when dealing with the media in respect of complaints against Members and their investigations

1.2 Individual Members should not initiate press comment on complaints and investigations. The only exceptions are comments made by: -

1.2.1 a Member against whom the complaint has been made; or

1.2.2 a Member who has made a complaint either of whom may respond factually when approached by the media.

1.3 The aim of the Protocol is to ensure a consistent approach.

2. Key Principles for dealing with the media

2.1 All press releases about the Committee's business should only be issued through the Council's communications team ("the Press Office") in accordance with the procedure set out below.

2.2 All press releases must be authorised by the Monitoring Officer in consultation with the Committee Chair.

2.3 The appropriate spokesperson to be quoted in any press release will normally be the Committee Chair who will comment on behalf of all Members of the Committee or the Monitoring Officer.

2.4 Each situation should be treated according to the particular circumstances (e.g. potential criminal proceedings could influence the statements or releases). In this context, the Press Office should liaise with the Monitoring Officer to ensure that statements issued could not be seen as prejudicing potential criminal or other proceedings. Any statement issued by the Council must be fair and accurate.

2.5 Should any Members of the Committee be approached directly by the media with enquiries relating to Committee business, they should refer them to the Press Office to ensure a consistent response. The Committee Member should endeavour to forewarn the Press Office that they have received such an approach so that the enquiry can be anticipated.

3. Nature of media comment

3.1 To ensure a fair and consistent treatment of all cases and a properly controlled release of information, the Committee shall adopt the following practice: -

Complaint upheld
Where a complaint is upheld and action taken, a press release should be issued as a matter of course. This should be issued to the local media as appropriate. Any press release will also be published on the Council's website. The press release should include the following information:

- The nature of the complaint
- The outcome
- The Committee's reasons for reaching its decision
- The nature of the action taken (e.g. nature of censure)

Complaint not upheld
Where the Committee determines that there is no case to answer and no action is taken, no release should be issued unless the Member concerned specifically requests it. This may happen, for example, where there has already been press coverage or speculation on a particular investigation and there is a need to clarify the position. Where a press release is not issued, it is possible that media enquiries could still be received, and such enquiries should be responded to so far as considered necessary.

Ongoing investigations
The Council should only respond as necessary to media enquiries relating to any ongoing investigation. All media enquiries should be referred to the Press Office. The Press Office will limit their response to confirming only the following details:

- That a complaint has been received
- The nature of the complaint
- That an investigation is underway
- The likely timetable to be followed

At this stage, the name of the individual subject to the investigation should not be released. However, the Member who is the subject of the complaint and the Monitoring Officer and the Committee Chair should be informed of the media interest shown and the response given.

4. Monitoring of this Protocol

The operation of this protocol shall be regularly monitored by the Monitoring Officer and the Press Office

PART E – CODES AND PROTOCOLS

SECTION 4 - PROTOCOL ON ELECTED MEMBER/OFFICER RELATIONS

1. Role and Purpose

1.1. The purpose of this protocol is to provide general guide for Elected Members and Officers in their relations with one another. It reflects the basic principles underlying the respective rules of conduct that apply to both Elected Members and Officers. This protocol cannot cover every eventuality nor is it prescriptive. Its intention is to offer guidance on some of the issues that commonly arise. It is hoped that the approach adopted to these issues will serve as a guide to dealing with other issues.

1.2. Elected Members and Officers are all public servants who depend on each other in carrying out their work. Elected Members are responsible to the people of the Borough who they serve for as long as their term of office lasts, whilst Officers are responsible to the Council. Their job is to give impartial advice to the Leader, Cabinet and Council, as well as individual Members, and to carry out the Council's work. The responsibility for decision making in relation to the Council's work is set out in Article 16 of the Constitution. The Leader and Cabinet therefore provide direction to the Council's Officers in relation to Executive responsibilities and the Full Council, its Committees and Sub Committees will similarly provide direction in relation to areas of work that are non-Executive responsibilities.

1.3. Mutual respect between Elected Members and Officers is essential to good local government. Mutual respect and courtesy should prevail in all meetings and contacts (both formal and informal) between Elected Members and Officers. To be most effective Members and Officers will work closely and cohesively together. However, close personal familiarity between individual Members and Officers can damage this important relationship.

1.4. The relationship has to operate without any risk of compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members.

1.5. As it is acknowledged that some close relationships will inevitably develop, it is important that they be openly declared and where possible Elected Members and Officers who have close personal relationships should avoid working relationships where they would come into regular contact on projects and in day to day business of the Council.

2. Role of Elected Members and Officers

2.1. Members have many different roles:

a) Elected Members are the policy makers and carry out a number of strategic and corporate functions collectively approving the Council's policy framework, strategic plans and budget.

b) Developing and reviewing policy and strategy.

c) Monitoring and reviewing policy implementation and service quality.

d) Elected Members express political values and support the policies of the political party or group to which they belong (if any).

e) Representing their communities and bringing their views into the Council's decision-making processes, thus becoming advocates for their communities.

f) Dealing with individual case work and representing constituents in resolving concerns and grievances.

g) Balancing different interests in their ward and representing the ward as a whole.

h) Being involved in partnerships with other organisations as community leaders.

i) Representing the Council on other bodies and acting as ambassadors for the Borough of South Tyneside.

j) Elected Members act in a quasi-judicial capacity when involved in regulatory committees such as licensing and planning.

k) Elected Members may have roles relating to their position as members of Cabinet, Overview and Scrutiny Committees or other committees and sub committees of the Council.

l) Elected Members of the Cabinet can have individual delegated powers; however, implementation of their decisions is an officer responsibility.

m) Elected Members serving on Overview and Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.

2.2. Officers' main roles are as follows:

a) Providing advice to the Leader and Elected Members to enable them to fulfil their roles.

b) Managing and providing services for which they are responsible.

c) Being accountable for ensuring those services are efficient and effective.

d) Advising the Leader, Cabinet, Council and individual Elected Members in respect of those services.

e) Initiating proposals for policy development.

f) Implementing the Council's policies.

g) Ensuring the Council acts lawfully.

h) Representing the Council on external organisations.

2.3. This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Elected Members and Officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

2.4. The key role of Officers is to implement the policies determined by Elected Members. Officers serve the Council as a whole and must ensure that the individual rights of all Elected Members (including members of all political groups and independent members) are respected. Policies of the Council are determined either by a decision of the whole Council or of the Cabinet in accordance with its powers as provided in the Constitution.

2.5. An essential ingredient to the Council's business being conducted effectively is ensuring mutual respect, trust, courtesy and even-handedness in all meetings and contacts between Elected Members and Officers, Elected Members and Elected Members and Officers and Officers. This plays a very important part in the Council's reputation and how it is seen by the public.

3. The Council's Reputation

3.1. Elected Members and Officers both have an important role in engendering a good reputation for the Council. In particular they should:

a) protect and promote the legitimacy of democratic local government;

b) promote a positive relationship between Elected Members and Officers and be careful not to undermine it;

c) avoid criticism of the Council when formally representing it; and

d) avoid personal criticism of other Elected Members and Officers.

4. Undue pressure

4.1. In any dealings between Elected Members and Officers neither should try to take advantage of their position.

4.2. In their dealings with Officers, Members should be aware that it is easy for Officers to be overawed and feel at a disadvantage. This can be even more so where Elected Members hold leading roles. However, it is also possible for Elected Members, particularly newer Members to be overawed by Officers. Members and Officers must always be mutually respectful regardless of their role within the Council.

4.3. Elected Members must not pressurise any Officer to do things s/he has no power to do, or to work outside of normal duties or hours.

4.4. Apart from decisions that are clearly illegal, Officers should usually carry out decisions of Cabinet and Council. However, instructions should never be given to Officers to act in a way that is unlawful as ultimately this could damage the Council's interests. Officers have a duty to express their reservations in this sort of situation, and the Monitoring Officer or Chief Finance Officer may get involved as they have a statutory duty to intervene where illegality or maladministration is possible.

4.5. To assist Elected Members in decision making they should be informed of all legal and financial considerations and be warned of the consequences even if it is unpopular. If an Elected Member has a concern that an Officer is not carrying out a particular Cabinet or Council decision, the Member concerned should draw this to the attention of the Chief Executive. In similar terms, Officers should not use undue influence to pressure an individual Elected Member to make a decision in his/her favour, nor raise personal matters to do with their job, or make claims or allegations about other Officers to Elected Members.

4.6. The Council has procedures for consultation, grievance and discipline and there is a right to report actions of concern under the Council's Whistle Blowing Policy.

4.7. As mentioned above, the Council has adopted separate Codes of Conduct for Members and Officers. One shared aim of the codes is to improve and maintain the Council's reputation and so they demand very high standards of conduct.

4.8. Under the Members' Code of Conduct Members must promote equality, treat others with respect and decency and not do anything that compromises the unbiased nature of those who work for the Council. In particular, Members should never act in a way which an independent observer might consider to be bullying, harassment or trying to get special treatment.

5. Personal and Business Relationships

5.1. Elected Members and Officers must work together closely to effectively undertake the Council's work. This inevitably leads to a degree of

familiarity. However, close personal relationships between individual Members and Officers can be damaging to mutual respect.

5.2. It is important not to allow any personal or business connection or relationship with any other Members or Officer to affect the performance of official responsibilities, taking action or making decisions. It is also important in these circumstances to be wary of passing confidential information to anyone who should not have access to it.

5.3. Elected Members and Officers should always consider how any relationship or connection could be interpreted by anyone outside the Council, or by any other Member or Officer, and avoid creating any impression of unfairness or favouritism.

5.4. Elected Members should take account of any relationship or connection they have with any other Member or Officer when considering whether or not they need to register or declare a personal interest.

5.5. It would usually be inappropriate for a Elected Member to have special responsibilities in an area of activity in which someone with whom s/he has a close personal or business relationship is a senior officer. If this situation arises, the Member should take appropriate action to avoid a potential conflict of interest.

6. Officers' Advice to the Elected Mayor and Members

6.1. Elected Members are entitled to ask the Chief Executive, Directors, Director of Public Health or Heads of Service and Corporate Leads for such advice and information as they reasonably need to help them in discharging their role as a Member of the Council. This can range from general information about some aspect of the Council's activities, to a request for specific information on behalf of a constituent.

6.2. Similarly, the Leader is entitled to receive such advice and support as s/he reasonably requires to enable them to fulfil their role as the political leader of the Council and the Council's principal public spokesperson.

6.3. It is important for the Chief Executive, Directors and Heads of Service and Corporate Leads to keep Members informed both about the major issues affecting the Council and about issues affecting the areas s/he represents. Elected Members shall be kept informed about proposals affecting their ward and be invited to Council initiated events within or affecting their ward. Although issues may affect a single ward, where they have a wider impact, a number of local Members will need to be kept informed.

6.4. Advice or information sought by Members should be given in a timely manner. It should be provided by the relevant service provided it is within the service's resources. Resources are finite and Elected Members

should act reasonably in the number and content of the requests they make.

6.5. Officers serve the whole Council and must be politically neutral in their work. In providing advice and support to the Leader and Cabinet, and/or the Council, and when implementing the lawful decisions of Cabinet and Council, it must not be assumed that an Officer is supportive of a particular policy or view or is being other than politically neutral in implementing such decisions. Political neutrality in carrying out their work ensures that Officers are able to act impartially in the best interests of the Council. Special legal rules exist which limit the political activities of senior Officers. All senior posts are 'politically restricted', which means that the Officers in those posts are not allowed to speak or write in such a way that could affect public support for a political party. However, they can speak or write in a way which is necessary in order to perform their duties properly. More information about this is set out below and a list of politically restricted posts is available through the Council's Chief Executive.

6.6. If Members have any concerns that an Officer is not acting in a politically neutral manner, they should refer their concerns to the relevant Head of Service or Director, or in the case of the Chief Executive the Leader. Allegations that an Officer has not acted in a politically neutral way are serious and could be damaging to his/her reputation.

6.7. Officers can advise on matters relating to the Council's business. However, the Officer may need to tell his or her manager about the discussions, if that is necessary to enable a matter to be properly dealt with.

6.8. Officers can usually give information confidentially unless doing so would not be in the Council's best interests (for example, if it went against their obligation to protect the Council's legal or financial position). Any information a Member receives confidentially in one capacity (for example, as a Cabinet Member) cannot be used when acting in a different capacity (for example, when representing his/her ward). Confidential information can only be given to those entitled to see it. It is best to check with the Officer giving the information whether it is appropriate to pass it on to others.

6.9. Members should make sure that when they are getting help and advice from Officers, they only ask for information to which they are properly entitled. There is more detail about the information to which Members are entitled below. Members' rights to inspect documents are contained partly in legislation and partly at common law.

6.10. If a Member asks for information or advice relating to the work of a particular service, and it appears likely or possible that the issue could be raised or a question asked at a subsequent meeting on the basis of

that information, the relevant Cabinet Member, or Chair of the Committee should be advised about the information provided.

6.11. Any Member can seek advice or assistance in confidence to address a ward issue.

6.12. Officers are required to serve the Council as a whole. They are responsible to the Chief Executive, Directors, and Heads of Service / Corporate Leads, and not to individual Members whatever office they may hold.

7. Politically Restricted Posts

7.1. There are a number of rules which apply to Officers who occupy politically restricted posts under the Local Government and Housing Act 1989. In summary such Officers are prevented from:

a) being a Member of Parliament, a Member of the European Parliament or a local authority member;

b) acting as an election agent or sub agent for a candidate for any of those bodies;

c) being an officer for a political party or branch, or a committee if that role is likely to involve participation in the management of the party or branch, or to act on its behalf in dealings with other persons;

d) canvassing on behalf of a political party or an election candidate;

e) speaking in public in support of a political party; and

f) publishing written or artistic works affecting support for a political party.

8. Member Briefings and Political Group Briefings

8.1. General matters of the Council's policy, development, and performance as well as specific policy issues will usually be the subject of all-party briefings.

8.2. There is statutory recognition of political groups. It is common practice for political groups to give preliminary consideration to matters of Council business before the matters are considered by the relevant decision making forum. Senior Officers may properly be called upon to support and contribute to such deliberations by party groups, provided they maintain a stance which is politically impartial.

8.3. Senior Officers may be asked to attend political group meetings called to address Council business. All requests for briefings of political groups should be directed to the Chief Executive. If attendance is requested the Chief Executive's agreement should be obtained and s/he will determine

the most appropriate Officer to attend and ensure all groups must be offered the same facilities if they so request.

8.4. Support may include a range of activities including briefings for members related to their roles e.g. chairperson or spokesperson. Officers should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party-political nature. Such advice should be available to all party groups; not solely the majority group. It is important that the political neutrality of Officers is preserved, and that group confidentiality is maintained by Officers.

8.5. Usually only the Chief Executive, Directors and Heads of Service may be asked to attend Group meetings and will usually be excluded after making a presentation. It is likely that these Officers will be required to attend meetings of Members of the majority group from time to time and possibly other groups.

8.6. Where officers do attend political group meetings certain matters need to be understood by Elected Members and Officers about this process:

a) Officer support in these circumstances will be to provide information and advice and to answer questions about matters of Council business;

b) these meetings are not decision-making meetings and conclusions reached at them are not the Council's decisions;

c) where Officers provide information and advice at these meetings this is not a substitute for providing all necessary information and advice to the decision-making forum;

d) if the meeting includes non-Councillors, Officers may not be able to provide the information and advice they would to a meeting of Councillors to prevent disclosure of confidential information to non-Councillors; and

e) Officers should not be asked for, or give advice or comments on political business, and should not expect to be present at meetings or parts of meetings when matters of political business are to be discussed.

8.7. The requirements as to declaring interests apply to political group meetings. The meeting should keep to the requirements of declaring personal and prejudicial interests, including the requirement to record any declared interests in the record of the meeting, and any person with a prejudicial interest should leave the meeting.

8.8. Officers should respect the confidentiality of any discussions at which they are present with Members in this context and, unless requested to do so by that political group, will not relay the content of such discussions

to another political group or to any other members. They may however have to brief the Chief Executive on the nature of issues raised at the meeting. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

8.9. It is accepted that a Member of one political group will not have a need to know and has no right to inspect a document, which is confidential to another political group.

8.10. When responding to questions at a political group meeting Officers will need to bear in mind the rules as to access to information, and where appropriate the need for Members to show that they have a 'need to know'.

8.11. In their dealings with political groups, officers must treat each group in a fair and even-handed manner.

8.12. Officers should not attend nor be asked to attend political group meetings at any pre-election period (the time between the election being announced and election day). Whether an Officer can attend will be a decision for the Head of Service in accordance with directions from the Chief Executive. If an Officer who is invited to attend a public meeting is concerned that the meeting is or is becoming a political meeting the Officer will withdraw from the meeting as soon as reasonably practicable to ensure that the political neutrality of the Officer is seen to be maintained. No such meetings should be arranged or held during the pre-election period to the Council's elections.

8.13. It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive Members or the Leader) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid the Council's resources being used for private or party-political purposes.

9. **Correspondence**

9.1. When a Member sends any letter, fax or e-mail to an Officer, if s/he is also sending a copy to another person s/he should, as far as possible, make this clear to the Officer. Similarly, if an Officer sends information to a Member and copies that information to any other person, s/he should make that clear, as far as possible, to the Member concerned.

9.2. Communication between Members and Officers will normally be confidential and should not be disclosed to third parties unless there are overriding obligations to disclose it to protect the Council's interests. A Member may however disclose information to a constituent if the information deals with a ward matter which the constituent has raised, provided the information is not confidential and that disclosure will not harm the interests of the Council or another party. As a general rule

personal information about a third party will be confidential. It is best to seek advice if there is any doubt as to whether information can be disclosed. Where information is provided to Members through the Members' Enquiry System, it is accepted that this will normally be made available to third parties. Where the Officer providing the information considers that the whole or any part of the information should be treated as confidential then this will be indicated, and Members will respect that position.

9.3. A summary of the issues raised by and enquiries made by Members, organisations and Members of the public may, from time to time, be given to the relevant Cabinet Member.

9.4. Where an officer copies correspondence addressed from one Member to another, it should be made clear to the original Member and should not be sent to any member of another political group without the Member's consent.

9.5. In addition, official letters from the Council should normally be sent out in the name of the appropriate officer rather than a Member. However, it may be appropriate in certain circumstances (e.g. representations to a Government Minister), but this would be the exception rather than the norm. Letters which create obligations or give instructions should not be sent out in the name of a Member.

10. Support Services for Members

10.1. The role of Officers is only to assist Members in discharging their role as Members of the Council for Council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. stationery and photocopying) may only be used for Council business.

10.2. The Council does not have the power to provide resources, including Officers, other than use for the Council's business. It does not have the power to provide resources for party political purposes. The Council's business relates to a Member's duties as an elected Ward Councillor, a Cabinet Member, as a member of a committee, sub-committee or working party/task group or as the Council's representative on another body.

10.3. The Authority's resources include:

a) any equipment,

b) office/premises or stationery, and

c) the Council's Officers.

10.4. Special rules apply to the use of the Council's resources in relation to publicity. The Authority is not able to publish or arrange for the publication of party-political material. Publicity is defined as 'any communication in whatever form addressed to the public at large or to a section of the public'. This definition therefore includes press releases, ward bulletins and letters to the media etc but does not include letters to individuals, unless this was on a scale which could constitute 'a section of the public'.

10.5. There are a number of general principles that are applicable irrespective of the type of Council resource that is being utilised:

a) The Council's resources may only be used in accordance with the Council's Code of Conduct for Members;

b) this protocol and the law;

c) the use of the Authority's resources must always be able to be justified;

d) Apply common sense – it is likely to be a good barometer of what is likely to be acceptable and what is not; and

e) If you are concerned always seek advice particularly where use could be considered to be on the margins of what is acceptable.

11. Relationships between Officers and the Leadership/Cabinet

11.1. The Chief Executive, Directors, Heads of Service and other appropriate senior officers may be asked or consider it appropriate to brief the Leader or Deputy Leader in accordance with their responsibilities as provided in the Constitution. Briefings of Cabinet Members either individually or collectively will also take place regularly in accordance with respective responsibilities in the Constitution and in accordance with statutory provisions.

12. Members' Access to Information and Council Documents

12.1. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members.

12.2. Members should not put pressure on officers to release information and documents to which they are not entitled to have access. Reference should be made to the provisions of the Code of Conduct and the statutory provisions relating to members access to documents.

12.3. The common law right of Members is based on the principle that any Member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the

Member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

12.4. The exercise of this common law right depends therefore upon the Member's ability to demonstrate that they have the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Director whose Directorate holds the document in question (with advice from the Monitoring Officer).

12.5. In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee or a ward Councillor fulfilling constituency duties) a member's "need to know" will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.

12.6. Members and Officers are encouraged to consider the Protocol on Member Access to Information (Part E (5)).

13. Operation of the Overview and Scrutiny Committees

13.1. The Overview and Scrutiny Committees may require Officers and Members to attend and provide any information required to answer questions (other than those which he or she would be entitled to refuse to answer in a court of law). The Council may consider that this requirement should only apply to the Chief Executive, Directors, Heads of Service, Senior Managers and not more junior staff (except with their agreement).

13.2. Members of the Overview and Scrutiny Committees must treat officers and independent witnesses with respect and should explain the role and operation of the Committee, particularly in relation to future policy development, before asking questions of witnesses. Members should adopt an inquisitorial approach to questioning and may be firm and assertive, but should not be adversarial, rude or aggressive.

14. Officer/Chairperson Relationship

14.1. Officers and Chairpersons of Committees will inevitably need to work closely together. However, such relationships should never be allowed to become so close or appear to be so close as to bring into question the officers' ability to deal impartially with other members and other party groups, nor to undermine public trust and confidence in the Council.

14.2. If a report is written in an Officer's name, it remains the Officer's report and, even if the Chairperson is unhappy with its contents, it should not

be amended other than with the consent of the Officer. Where the Chairperson wishes to suggest an alternative course of action to that proposed by the Officer, then in exceptional circumstances, he/she should write his or her own report in addition to the report submitted by the Officer but should not use undue pressure to persuade the Director to withdraw or amend the original Officer report. Members should not interfere with the day to day work of Directors and their staff.

14.3. In relation to action between meetings, it is important to remember that the law only allows for decisions relating to the discharge of any of the Council's functions to be taken by a Committee, a Sub-Committee or an officer since no single member has been given delegated powers under the Council's executive arrangements.

14.4. Finally, it must be remembered that officers within a Directorate are accountable to their Director and that whilst officers should always seek to assist a Chairperson (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Constitution, the Chief Executive or the appropriate Director.

15. Involvement of Ward Councillors

15.1. Ward Councillors should be kept informed and consulted on relevant matters affecting their ward, i.e. on planning, licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward Councillor will normally be invited to attend and could normally be expected to be consulted on any form of consultative exercise on local issues.

15.2. So far as decision making is concerned, however, Members remain accountable to the whole electorate of the Borough and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole, including those members of the public who did not vote for them.

15.3. Ward members will treat officers with respect in accordance with the Members Code of Conduct and will not seek to put undue pressure on relatively junior officers with whom they may have contact in their ward duties or at meetings of Community Area Forums.

16. Multi-Member Ward working

16.1. There are some practical issues which may evolve in multi-member ward working. There is acknowledgement that informal ward-based practice is most likely to produce the most effective local working relationships with the greatest benefit for residents.

16.2. In accordance with the roles and functions of all Councillors all Elected Members will represent the views of all constituents to

the Council. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents. Elected Members have a duty to be accessible to all the people of the area for which they have been elected to serve, and to represent their interests conscientiously.

16.3. Therefore, as far as is possible, Elected Members shall deal with matters arising from and within their Ward only, representing their Ward and the people who live in it. Councillors provide a bridge between their community and the Council. Elected Members will act as an advocate for Ward residents and signposting them to the right people at the Council, as appropriate.

16.4. Elected Members are working in a political environment and individuals may choose to approach a particular Councillor because of personal preference. It is inevitable that casework will be duplicated as a result of constituents approaching multiple Councillors or multiple Ward Members perhaps in an attempt to get a quicker or 'better' response.

16.5. Whilst advice surgeries are the traditional point of contact for constituents wishing to contact their ward Councillors, increasingly more often, constituents feel comfortable and find it easier to contact their local Member by telephone or email.

16.6. If an Elected Member is approached by a resident from outside of their Ward, either in person or by email/telephone, they are encouraged to signpost them to their appropriate Ward Members.

16.7. It is important to all Elected Members that they should be kept informed of, and have an input to, matters of council business that affect their Wards. Ward Councillors should be kept informed and consulted on relevant matters affecting their ward, i.e. on planning, licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward Councillor will normally be invited to attend and expect to be consulted on any form of consultative exercise on local issues.

16.8. If an Officer is contacted by an Elected Member with regards a query from a resident from outside of that Members Ward, and it is reasonable for that Officer to be, or ought to be, aware that the matter relates to another Ward, they shall in the first instance encouraged that particular Member to inform the relevant Ward Members. Where the matter is directly relevant to their portfolio responsibilities and it concerns potential change in approved policy or practice, the appropriate Cabinet Members should also be advised.

16.9. Data protection laws prohibit Elected Members and Officers from sharing constituents' personal details with other Elected Members unless they have the prior approval of the constituent. Therefore, if an Officer is contacted by an Elected Member with regards a query from a resident from outside of that Members Ward, and it is reasonable for that Officer to be, or ought to be, aware that the matter relates to another Ward, they shall seek permission from the constituent to inform the relevant Ward Members of the matter. Where permission is granted, all Members involved should co-operate to resolve the specific issue within the parameters of approved policy, practice, resources and taking account of Officer guidance.

16.10. If permission is not provided, the Officer cannot inform the Ward Members of the matter.

16.11. Correspondence between an individual Councillor and an Officer on a matter relating to a single constituent should not normally be copied (by the Officer) to any other Councillor. Where, exceptionally with the required permission under Rule 16.9 above, it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Elected Member before the email is sent.

16.12. The Code of Conduct sets out the minimum standards of conduct for all Elected Members. It highlights that Elected Members have a duty at all times not to do anything that brings the Council into disrepute. It also outlines how Elected Members should act and behave towards other councillors; this includes misusing the position as a member improperly to confer on or secure for oneself or any other person any advantage or disadvantage. The Code quite clearly specifies that Elected Members have a responsibility to treat each other with respect and decency.

17. Officer Complaints about Members

Contact should be made in the first instance with the Monitoring Officer where member conduct is considered inappropriate. The Monitoring Officer can advise on whether a written complaint can be made under the Council's Code of Conduct or under the Council's Whistleblowing Policy. The Chief Executive and/or Monitoring Officer may liaise with the Leader of the Member's political group and the Member(s) concerned to establish whether the matter can be resolved locally, particularly where the conduct appears to fall short of a breach of the Code of Conduct.

18. Monitoring the Performance of Officers

Elected Members should avoid making personal attacks on Officers and, in particular, avoid undermining respect for Officers in Full Council and Committee meetings or public forums including in meetings, by email or on social media.

19. Press Releases

Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibit Councils from publishing any material which appears to be designed to affect public support for a political party. Publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole. Officers will advise and inform Members accordingly in this connection.

20. Ceremonial Events

Ceremonial events would normally be attended by the Mayor or the Deputy Mayor unless the event specifically related to initiatives led by a particular Cabinet Member or Committee, in which case the Chairperson or Vice-Chairperson of that Committee or the Leader or appropriate Cabinet members would attend. In addition, local members should be informed and, where possible and appropriate, be invited to participate together with the relevant Officer (again, if possible and appropriate).

21. Interpretation, complaints and allegations of breaches

21.1. This part of the protocol should be read in conjunction with the Council's "whistleblowing" policy.

21.2. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

21.3. A Member who is unhappy about the actions taken by, or conduct of, an officer must:

a) avoid personal attacks on, or abuse of, the officer;
b) ensure that any criticism is well founded and constructive;
c) avoid making criticism in public, and
d) take up the concern with the officer privately.

21.4. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's relevant Head of Service or Corporate Lead, or Director, if more appropriate.

21.5. Where an officer is in serious breach of this protocol, this may lead to an investigation under the Council's disciplinary procedure. There are special rules that apply to the Council's Chief Executive (Head of Paid Service), the Chief Finance Officer

(Section 151 Officer) and the Monitoring Officer and these can be found Part D Section 7 in the Constitution.

21.6. An officer who believes a Member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer in the first instance. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than having an informal conversation with the Member and the Monitoring Officer or referring the matter to the leader of the relevant political group. More serious complaints may involve alleged breaches of the Members' code of conduct and may ultimately be referred to the Council's Standards Committee.

22. Non-Adherence to the Protocol

22.1. Breaches of this protocol by Officers should be dealt with under the Council's disciplinary procedures.

22.2. Breaches by Elected Members may be referred to the relevant political Group Leader for consideration and should be reported to the Monitoring Officer in the first instance. It may ultimately be reported to the Standards Committee or dealt with as a breach of the Code of Conduct, if appropriate. Breaches by co-opted members will be similarly considered under the Code of Conduct.

PART E – CODES AND PROTOCOLS

SECTION 5 – PROTOCOL ON MEMBER ACCESS TO INFORMATION AND COUNCIL DOCUMENTS

1. Introduction

1.1 It is a key feature of effective working and decision making in local authorities that Members should have access to necessary information in a form which is accessible and provided to them in a timely manner. South Tyneside Council has a general practice of openness and transparency about the information it holds.

1.2 This is subject to some legal rules that affect the disclosure of information in some circumstances, and guidance about access is set out in the Access to Information Procedure Rules in Part D Section 4 of the Constitution.

1.3 If Members need information to assist them with a particular enquiry or piece of work please find refer to the information set out in the Access to Information Procedure Rules in Part D Section 4 of the Constitution and in the Protocol for Member/Officer Relations (Part E Section 4).

PART E – CODES AND PROTOCOLS

SECTION 6 – PROTOCOL FOR VIRTUAL MEETINGS

The following protocol shall only be adopted should virtual attendance of the Council and its various committees and sub-committees be legally permissible and incorporates the learning from the COVID-19 pandemic to allow the Council to respond quickly, should a similar situation arise again in the future.

Introduction

Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales Regulations 2020) make provision for remote attendance at, and remote access to council meetings, held on or before 7 May 2021.

These regulations enabled the Council to hold meetings without all, or any, of the members being physically present in a room. They allowed for remote meetings through electronic and digital means at virtual locations using video and telephone conferencing, live webcast and live interactive streaming.

The "place" at which the meeting may be held was a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address or a conference call telephone number.

In order for Members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard – and, where practicable, see and be seen by – other councillors and members of the public attending remotely or in person.

The procedure rules in this protocol take precedence over council standing orders in relation to the governance of remote meetings only – if and when legally permissible and an adopted way of working by the Council.

This protocol is designed to provide a guide to virtual formal committee meetings involving Members, officers and the public during the COVID-19 pandemic and will be kept under regular review.

Prior to the meeting

Attendance notification – Where a meeting is to be held virtually this will be set out in the summons to the meeting and members and officers expected at the meeting will be provided with access.

Email addresses of all non-council participants in a meeting must be supplied to Democratic Services not less than 24 hours in advance of the meeting by relevant officers. Public observers will be able to watch the meeting via live stream.

Code of Conduct – The Code of Conduct still applies to virtual meetings, and the same procedures undertaken in a physical meeting still apply, for example waiting for the Chair to give permission to speak.

Disturbances – Participants must try to limit disturbances wherever possible. For example, mobile phones and other electronic devices – TVs, tablets, and so on – must be on silent during the meeting.

Visibility – Participants must remain in view of the camera at all times. A professional appearance must be upheld at all times – for example, no eating, smoking or vaping during the meeting. Non-alcoholic drinks may be consumed, but these must be prepared beforehand.

Technical support – The video-conference link must be established and tested before the commencement of the meeting by Democratic Services, Chair and Members of the committee, ideally at least 15 minutes beforehand. Any problems establishing a video-conference link must be reported as soon as possible to Digital and ICT services.

Agenda – Democratic Services will publish the agenda and report for committee meetings on the Council's website and will notify Councillors by email. Printed copies will be circulated as per normal procedure.

At the meeting

The Chair will undertake a roll call at the outset of the meeting, and at any reconvened meeting, and ask all participating members and officers to introduce themselves and declare any interests. At this point, members and officers can also confirm that they can see/hear the Chair and have no technical difficulties. The Chair will remind councillors and officers to mute their microphones when not speaking, to reduce feedback and background noise.

If members have an interest to declare during the meeting, they must do so by raising their hand and waiting for the Chair to call on them. Any members participating by remote link who declares a pecuniary interest for an item is required to mute both their microphone and video during the item in question and will be placed in the ‘waiting areas’. They will be brought back into the meeting upon conclusion of the item.

Should any aspect of the video-conference link fail, the Chair will call a short adjournment of up to 15 minutes to determine whether the link can be re-established. If the link is re-established the Chair will continue the meeting from the point at which the link had previously failed.

In the event of link failure, the relevant remote members and officers will be deemed to have left the meeting at the point of equipment failure, and the meeting may be suspended by the Chair. The meeting should be suspended unless the meeting remains quorate and the business remaining is sufficiently urgent to warrant the continuation of the meeting having regard to the number of Members who have lost the remote link.

The voting procedure for remote members during a video-conference will be a roll-call vote, with the Chair asking each voting member individually for their vote. Whilst the recording of the meeting will retain each member's vote, this will not be recorded in the minutes unless a formal recorded vote is required.

If the video-conference committee enters exempt or confidential session, then the remote participants will be expected to ensure individually that their remote working venue is secure, that no member of the public can see or hear the meeting, and no recording – other than the Council's – is taking place.

The Chair may also ask each person in turn if they have any points they wish to raise on a particular item before completing the discussion and agreeing any recommendations. Members who wish to speak outside of this rule will need to clearly raise their hand. When referring to reports or making specific comments, members and officers should refer to the report and page number in the agenda, so that all members have a clear understanding of what is being discussed.

Meetings of Full Council

Where meetings of Full Council will take place using virtual attendance, Democratic Services will prepare a detailed briefing note for the Mayor to be able to manage the business of the meeting electronically.

Public questions

The council will continue to take questions from the public as set out in the Constitution. The member of the public asking the question will need to submit their question in writing as there will be no opportunity to ask the question in person. A copy of the question will be circulated electronically and published on the Council's website.

Petitions

The council will continue to take questions from the public as set out in the Constitution. A copy of the petition will be circulated electronically and published on the council's website. The petition organiser will then receive a written response as per the Constitution.

Members questions

The council will take written questions to the Leader of the Council, Cabinet members or the Chair of any committee, provided the appropriate notice is given as set out in the Constitution. The Mayor will read their question at the meeting.

Motions

Members will have the ability to submit motions to Council as set out in the Constitution. Members are asked to be mindful of the overall situation and consider if their motion is appropriate for the meeting or whether it could be held for a later meeting.

Amendments to motions

Members are asked to consider carefully the need for amendments. Political groups are asked to contact the mover of a motion to see if their amendment can be treated as an alteration.

Speaking at council meetings

Speeches from members should be kept to a minimum. Group leaders may initially wish to identify key speakers within their group – this does not include the mover and seconder of a motion.

Members are asked to be mindful of the overall situation and consider carefully before raising Points of Order, Points of Information or Personal Explanation.

Voting

Voting will be managed by the Monitoring Officer. If an item requires a vote, the Monitoring Officer will read out the name of each member in turn, in alphabetical order, and ask them how they wish to vote.

Each Member will need to unmute their microphone before speaking. Once a Member has given their vote then microphones should be muted again.

If an item does not appear to be contentious, the Mayor may ask members whether any member disagrees or wishes to abstain. In the situation where there is any dissenting voice, a vote will be taken.

Other formal meetings of the council

Other formal meetings of the council may take place using the MS Teams or Zoom software platform. Democratic Services will prepare a detailed briefing note for the Chair to manage the business of the meeting electronically.

Committees will continue to take questions from the public as set out in the Constitution. The member of the public asking the question will need to set out the question in writing as there will be no opportunity to ask the question in person and must adhere to the timeframes laid out in the Constitution.

A copy of the question will be circulated electronically and published on the council's website. The Chair will read the question out.

Managing the meeting

The management of the meeting will follow the Constitution as closely as practical, with the variations mirroring those for Full Council meetings, particularly with respect to voting.

PART E – CODES AND PROTOCOLS

SECTION 7 – PRTOCOL ON USE OF THE COUNCIL'S RESOURCES AND SUPPORT

1. The Council does not have the power to provide resources, including Officers, other than use for the Council business. It does not have the power to provide resources for party political purposes.

2. The Council's business relates to a Member's duties as an elected Ward Councillor, a Cabinet Member, as a member of a committee, sub-committee or working party/task group or as the Council's representative on another body.

3. The Council's resources include:

    - any equipment,
    - office/premises or stationery, and
    - the Council Officers.

4. Special rules apply to the use of the Council's resources in relation to publicity.

5. The Council is not able to publish or arrange for the publication of party-political material. Publicity is defined as '*any communication in whatever form addressed to the public at large or to a section of the public'*. This definition therefore includes press releases, ward bulletins and letters to the media etc but does not include letters to individuals, unless this was on a scale which could constitute '*a section of the public*'.

6. There are a number of general principles that are applicable irrespective of the type of Council resource that is being utilised:

    - The Council's resources may only be used in accordance with the Council's Code of Conduct for Members, this protocol, this Constitution and the law;

    - The use of the Council's resources must always be able to be justified;

    - Apply common sense – it is likely to be a good barometer of what is likely to be acceptable and what is not; and

    - If you are concerned always seek advice particularly where use could be considered to be on the margins of what is acceptable.

PART E – CODES AND PROTOCOLS

SECTION 8 – PROTOCOL ON PRESS, PUBLICITY AND PUBLICATIONS

1.1 Communication with the media can be an important Member function. There are some legal constraints that Members need to be aware of, for example around communications during the period of an election or referendum.

1.2 A national Publicity Code, produced by the government, sets down national guidelines for all local authorities to follow. The Council has produced its own guidance describing how communications including in relation to press, publicity and publications - is to be implemented by South Tyneside Council.

1.3 If a Member is unsure about the circumstances of an issue or wishes to seek some guidance, he/ she should contact the Communications team.

1.4 The Council's Communications team serves the whole Authority and provides internal and external communications support to all service areas. Its role is to communicate the Council's policies, priorities, decisions and services. This includes providing information to help residents get involved in the democratic process.

1.5 Officers in the team may also provide practical advice and guidance to Members on communications, for example providing contact numbers for local press, or providing a simple 'how to' guide on a number of topics.

1.6 The Communications team also has a responsibility for the reputation of the Council - ensuring that the public information about the organisation is factually correct. The Publicity Code permits the Council to correct inaccurate information in publicity produced by third parties, so long as it is done in an even-handed and objective way.

1.7 The Council's communications may include information from Members including their views and details about projects they have contributed to delivering. In practice, this will generally be restricted to Members with special responsibility, e.g. Mayor, Leader of the Council, Cabinet members, Chairs of Committees. However, the government guidance also accepts it is appropriate to consider including Members who have been the 'face' of a particular campaign.

1.8 The decision on who should be included in Council communications will be considered on an individual basis. It will take account of how best the Council can inform, explain and justify its actions and decisions to its residents and stakeholders. However, in all instances publicity material must not seek to affect public support for an individual Elected Member or political party. Members are able to undertake their own publicity, and this can involve speaking directly to the media. It is the responsibility of Members to ensure the information they give is correct and is not misleading.

1.9 The Code of Recommended Practice for Local Government Publicity requires the Council - its Officers and Members - to follow additional guidance around periods of heightened sensitivity. This includes the period in the run up to a referendum or election. This period, sometimes referred to as 'the pre-election period' or 'Purdah', imposes additional restrictions on what the Council can include in its publicity and who can and cannot be included.

1.10 The full approach officers will implement during these periods is subject to specific additional advice by the Monitoring Officer in the run up to these periods.

1.11 It is not permitted for the Council's resources to be used for party political purposes. If a Member wishes to publish information that supports or promotes the views of a political party, the information must be published by the Member or the political party concerned. The information cannot be published by the Council. Similarly photographs produced by the Council cannot be used by Members for political purposes. Where resources are made available for Members to support their engagement with residents e.g. street visit cards and letter-headed paper, this will be required to meet the corporate identity guidelines.

PART E – CODE AND PROTOCOLS

SECTION 9 – PROTOCOL ON THE USE OF SOCIAL MEDIA BY MEMBERS

1.1 Social media is a collective term used to describe platforms that enable users to access, create and share content, with online communities, via the internet. The term is generally used to describe how organisations and individuals use a platform to share ideas, personal messages and content – text, video and pictures – to engage in social conversations.

1.2 Social media has grown substantially over recent years as a means of communicating and sharing information. Most popular platforms at the time of development of the policy include Facebook, Instagram, Twitter, TikTok and YouTube.

1.3 It is important to remember that the primary purpose of social media is 'social'; it is about communication with others and therefore the use of social media is subject to legislation and guidance, in a similar way to other forms of communication.

2. Maintaining good 'social etiquette'

Everyone should take due regard of internet security and ensure that communications remain proper and appropriate. In addition, Elected Members are guided by the Council Code of Practice and the Nolan Principles of Public Life. The following practical points are a general guide for members who use a social media platform to communicate with others:

a) When hosting a social media platform, clearly publish the commenting policy or 'house rules'

Take note of the comments that other people make on your site/page/post. While free speech and healthy debate are encouraged, where offensive or disrespectful comments are posted and allowed to stand, users may reasonably expect that the Member endorses these comments. This could lead to a complaint under the Code of Conduct for Members – even though the comments were made by other users. For blogs, good practice is to set out a clear 'moderation policy' or 'house rules', which sets out why comments may be rejected. This should always include comments that incite violence or include hate speech.

b) Allow disagreement

Some comments made by other users may not accord with a Member's views. However, deleting the comments, just on the grounds of disagreement, may result in a lack of trust in the Member's site. Exceptions will apply where the 'house rules' have been contravened.

c) Think before publishing

Words cannot be unspoken. Even if comments are deleted following a post, comment or tweet, it is very likely to have already been read. This can subsequently be referenced or duplicated in places on the web beyond the Member's control and reach.

d) "Following" and "friending"

Some of the terminology in social media, like 'following' or 'friending' can imply an intimacy that is not really there. Both terms mean the Member has linked their account to someone else, so information can be shared. Experienced internet users are familiar with this concept, but some members of the public may feel uncertain if a Member begins following them on Twitter before establishing some sort of online relationship. Some Members wait to be followed themselves first.

Members may wish to make use of other communication functions that social media provides for. Twitter's 'list' function, for example, can help to follow local people in a less direct way. Bloggers are, however, almost invariably happy to be linked to.

Members should carefully consider who to be 'friends' with or from whom to accept 'friend' requests. Requesting or accepting, for example, an officer of the Council as a 'friend' on a social network site must not compromise the professional and impartial relationship between officers and elected members. Generally, this should be avoided, particularly where it is clear that your page is in your capacity as an Elected Member (not a personal page).

e) If you make a mistake

Experienced bloggers and social media users own mistakes, rather than try to cover them up. Clearly amending text (for example putting a line through the incorrect words and inserting a correction or providing an update/edit at the top of a post) demonstrates transparency.

f) Manage conflict

Members may experience conflict, including argumentative users. Members do not have to respond to all comments or posts and should consider whether responding encourages negative interactions. 'Trolls' is the term given to users who deliberately comment negatively or controversially on posts with the purpose to elicit a reaction from the host or other users. 'Don't feed the trolls', i.e. ignoring or even blocking the user (preferably with a warning first), is an approach which may be adopted.

3. Legal Considerations

In the main, Members have the same legal duties online as anyone else (see below), but failures to comply with the law may have more serious consequences. There are some additional duties around using a Member's platform for electoral campaigning. Extra care also needs to be taken when writing on planning, licensing and other quasi-judicial matters.

a) Libel

If a Member publishes an untrue statement about a person which is damaging to their reputation, they may be subject to a libel action by that individual. This will also apply if a Member allows someone else to publish libellous comments on their platform if they know about it and do not take prompt action to remove it. A successful libel claim against a Member would result in an award of damages against the Member.

b) Copyright

Placing images or text on a Member's platform from a copyrighted source (for example, extracts from publications or photos) without permission is likely to breach copyright. Members must either avoid publishing anything they are unsure about or seek permission in advance. Breach of copyright may result in an award of damages against the Member.

c) Data Protection

Avoid publishing the personal data of individuals unless the Member has evidence of their express, written permission.

d) Bias and pre-determination

If a Member is involved in determining planning or licensing applications or other quasi-judicial decisions, they must avoid publishing anything that might suggest they do not have an open mind about a matter they may be involved in determining. If not, the decision runs the risk of being invalidated.

e) Obscene material

A Member should avoid publishing anything that people would consider obscene. Publication of obscene material is a criminal offence.

f) Bullying and Discriminatory comments

Behaving in a discriminatory, bullying or harassing way towards any individual including making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, sexual orientation, religion or belief or age via social media by posting images or links or comments could, in certain circumstances, result in criminal sanction.

g) Electoral periods

The Electoral Commission requires that candidates provide a return of expenditure on any form of advertising or campaign literature and that includes internet-based (including social media) advertising. There are additional requirements, such as 'imprint standards' for materials which can be downloaded from a website. Full guidance for candidates can be found at www.electoralcommission.org.uk. While the above list is not exhaustive, it does highlight some of the more obvious issues. If you

are in any doubt, speak to the Monitoring Officer. Almost all pitfalls can be avoided if your online content is objective, balanced, informative, accurate and civil.

4. The Members Code of Conduct (Part E Section 2)

4.1 It is worth considering that Members can have 'blurred identities' when they have a social media account, where they comment both as a Member and as a private individual.

4.2 For example, a Member may have a Facebook account where they have posted about a great night out (in their personal/private capacity) and in another post explained the Council's position on pothole repair (in their Councillor capacity). It may be clear in the Member's mind which post is in a private capacity and which is as a councillor. However, it could be less clear to other users, leaving the Member open to criticism, even at a later date.

4.3 Such blurred identities might, for example, have implications where the Member's views are taken as those of the Council or political party, rather than the Member's personal opinion.

4.4 How a Member uses their online identity will also determine how online content will be treated in respect of the Members' Code of Conduct. As explained above, there is a difference between communicating on behalf of the Council or as an Elected Member, for example blogging as an Elected Member or as a private citizen. The former will be held to a higher standard than the latter.

4.5 The key to whether a Member's online activity is subject to the Code of Conduct for Members is whether they are acting in their role as a councillor or giving the impression they are doing so. Aspects of the Members' Code of Conduct will apply to a Member's online activity in the same way it does to other written or verbal communication. Members should always comply with the general principles of the Code in what they publish and what they allow others to publish on their account.

4.6 Using multiple social media accounts may assist in clarifying identities. One account could be established and used in a personal/private capacity, with a separate, distinct account used in connection with a Member's political activity and/or their role as a Councillor. However, care should be taken to ensure that the distinction between the personal/private account and the political/councillor account is clear in the descriptions used and, more importantly, in how the accounts are operated and they content posted. Political comments made with a caveat that they are made in a private/personal capacity, could nevertheless be subject to the Code of Conduct if they are clearly made whilst acting as a councillor or give an impression that they are.

4.7 Members will need to be particularly aware of the following sections of the Code:

- Treating others with respect. Avoid personal attacks and any disrespectful, rude or offensive comments.

- Refraining from publishing anything you have received in confidence
- Ensuring you do not bring the Council, or your role as a Member, into disrepute.

PART E – CODE AND PROTOCOLS

SECTION 10 - EMPLOYEES CODE OF CONDUCT

1. INTRODUCTION

1.1. The statutory responsibilities placed upon employees in Local Government are limited and are contained in Section 117 of the Local Government Act 1972. Appendix A attached to this procedure outlines such responsibilities.

1.2. Local Government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to other employees and Members with impartiality. Employees are obliged, through agreed procedures and without fear of recrimination to bring to the attention of the appropriate level of management, any deficiency or irregularity in the provision of service. Employees must report any impropriety or breach of procedure in line with the Council's Financial Procedure Rules.

1.3. The purpose of this procedure is to make all employees aware of the difficulties which present themselves in the Local Government environment and to offer guidance.

1.4. This procedure sets out the minimum standards which apply to Local Government employees. It aims to maintain and improve standards of conduct. Its main purpose is to protect employees from any misunderstanding or criticism and maintain the reputation of the Council.

1.5. It applies to all employees. Inevitably the procedure will affect some employee groups more than others. It is the responsibility of every employee to see how the procedure affects them and whether or not they need to act in response to it.

1.6. The procedure is concerned with the standards of conduct expected of employees in relation to ten main areas for which it is not easy to lay down guidelines covering every eventuality. These are:

1.6.1. Gifts and Hospitality
1.6.2. Political Neutrality
1.6.3. Relationships
1.6.4. Conflicts of Interest
1.6.5. Use of Confidential Information
1.6.6. Separation of Roles during Tendering
1.6.7. Corruption
1.6.8. Use of Financial Resources and Other Assets
1.6.9. Sponsorship
1.6.10. Behaviour at Work and Outside Work

1.7. Whilst these areas are somewhat different to the usual range of matters which are considered under the Council's Disciplinary Policy and Procedure, it should be noted that breaches of this procedure may result in action being taken against the employee in accordance with the Disciplinary Policy and Procedure. This might apply even when the particular incident which led to the questioning of conduct or integrity occurred completely outside the work environment. This procedure aims to set out minimum guidelines for Local Government employees which will help to maintain and improve standards, protecting employees from misunderstanding or unfair criticism.

1.8. This procedure is intended to assist employees to reach the "informed and correct" decision in any particular case. If in doubt employees should always seek the advice of a senior manager before committing themselves to any particular course of action. The Corporate Lead for Human Resources, who may consult with other appropriate officers, can be contacted for advice through appropriate Corporate Group managers.

2. GIFTS AND HOSPITALITY

2.1. It would be wrong to work in an atmosphere where Council employees refused all invitations for social involvement with persons or bodies who may have had or may seek to have in the future, business dealings with the Council. Social contacts can be helpful. At the same time, it is very easy for such involvement to be misconstrued as providing an opportunity to bring about undue influence.

2.2. Employees must not seek for themselves, their relatives or friends any gift, favour or hospitality.

2.3. Gifts

2.3.1. This paragraph, and paragraphs 2.3.2. and 2.3.3. below, are particularly concerned with the subject of gifts from organisations or persons who are providing, may provide or who seek to provide, work, goods or services to the Council, e.g. developers, building contractors, suppliers of goods or equipment and firms able to provide professional or commercial services to the Council. With the exceptions listed below, an employee should refuse any personal gift offered to him or her, or to a member of his or her family by any person or body who has or may seek dealings with the Council.

The offer should be reported to the employee's Director and, if the offer is made to a Director, to the Chief Executive. A record of any such offers (regardless as to estimated value) must be maintained in a Register of Gifts and Hospitality. (see paragraph 2.4.4)

2.3.2. Exceptions

2.3.2.1. A modest gift of a promotional nature given to a wide range of people and not uniquely to one employee. These gifts are often

given at Christmas time and include calendars, diaries, desk sets, pens, flow charts, tape measures and other articles of relatively low value for use in the office. These items will usually feature the company logo, donors name or trademark. Such gifts need not be recorded.

2.3.2.2. Gifts of a promotional nature on the conclusion of any courtesy visit to a factory or firm of a sort normally given and where a refusal is likely to offend. This equally applies to promotional gifts obtained or distributed at Conferences. Obviously, it is wise to err on the side of caution; an expensive gift should raise a question even if it otherwise falls within one of the above categories. If in doubt, the advice of a more senior officer should be sought. In general terms organisations/companies dealing with the Council should be discouraged from making offers of gifts wherever possible.

2.3.2.3. Some employees may represent the Council in an official capacity in foreign countries. Such employees may be presented with mementoes of their visit and need to be very careful not to offend their hosts by refusing to accept such gifts. Items of intrinsic value should be declared in the Register of Gifts and Hospitality and consideration given to donating such gifts to a charity or to displaying them in the office. Other items of small value need not be recorded as for items in 2.3.2.1. above.

2.3.3. Christmas is a particularly difficult time. The giving of gifts in a commercial environment and in some parts of Local Government where direct services are provided, is common practice at this time and refusal of reasonable gifts can cause offence or impair future working relationships. The general rule must always be to seek to discourage such gifts. Gifts should be politely refused. If this is not possible, acceptance should be reported to the employee's Director who will make a decision as to whether the gift should be returned with the appropriate explanation. If the gift is accepted by a Director, the matter should be brought to the attention of the Chief Executive.

2.3.4. Paragraphs 2.3.5. to 2.3.6. are specifically concerned with the subject of gifts which may be offered by individuals to those employees who have a caring role or who provide a "direct personal service" role to such individuals, e.g. Residential Care Staff, Domiciliary Care Staff. It is not unusual for residents of residential establishments or elderly people receiving any form of domiciliary service to wish to express their thanks and gratitude to Care Staff by offering gifts, money or even by making the employee a beneficiary in their Will.

2.3.5. It is most important in such situations to protect the employee from any suggestion of improper motives or conduct. This is obviously an area

however, which needs to be handled with great tact and sensitivity to avoid giving needless offence to the individual. The general principle must be that gifts or money of any denomination should be politely refused with a proper explanation given as to the reason why.

2.3.6. Clients should be tactfully discouraged, if they suggest or express an intention to include an employee of the Council as a beneficiary in their Will. On being made aware that he or she has been made a beneficiary in such a Will, the employee should immediately report the matter to their Head of Service/Corporate Lead and Director who should consult with the Monitoring Officer.

2.4. **Hospitality**

2.4.1. Hospitality is sometimes offered to representatives of the Council and is accepted as official, e.g. civic receptions, openings, the launching of new initiatives. In these cases, only appropriate very senior managers of the Council should attend. All attendances must be reported to the Chief Executive and recorded appropriately. Where hospitality is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. It is important to avoid any suggestion of improper influence. The question is one of judgement.

2.4.2. Employees should also be careful in attending exhibitions, seminars, visiting manufacturers, participating in sporting functions etc. There is an increasing trend towards linking visits with manufacturers to a major sporting event, show, concert, etc. Such devices are clearly an attempt to legitimise offers of hospitality in the guise of business activities.

2.4.3. In general terms, it will often be more acceptable to join in hospitality offered to a group, than to accept something unique to an individual. When a particular person or body has a matter currently at issue with the Council, e.g. an arbitration arising from a contract, then clearly common-sense dictates that offers of hospitality be refused even if in normal times they would be regarded as acceptable.

2.4.4. All offers of hospitality should be reported to the employee's Director or authorised senior manager concerned, or if the offer is made to a Director, to the Chief Executive. A record of any such offers must be reported to the Monitoring Officer and maintained in the Register of Gifts and Hospitality. Acceptance of hospitality by any employee requires the approval of the relevant Director/Head of Service/Corporate Lead. The form of this Book will be determined by the Chief Executive. (See Appendix B)

2.5. The following check-list of questions should help an employee to decide whether a gift or an offer of hospitality should be accepted or tactfully rejected.

2.5.1. Is the donor, or event, significant in the community or the Borough? If so, is the refusal likely to cause offence?

2.5.2. What is the motivation behind the invitation?

2.5.3. Will acceptance of the invitation be, in any way, inappropriate or place an individual under pressure in relation to any current or future issue involving the Council?

2.5.4. Can the decision be justified to the Council, press and public?

2.5.5. Is the extent of the hospitality or the nature of the gift reasonable and appropriate?

2.5.6. How will the individual respond to the hospitality?

3. POLITICAL NEUTRALITY

3.1. Employees serve the Council as a whole. It follows they must serve all Elected Members not just Members of any controlling group and must ensure that the individual rights of all Elected Members are respected.

3.2. Employees, whether or not they are in posts which are politically restricted, must adhere to all policies of the Council and must not allow their own personal or political opinions to interfere with their work. Those employed in politically restricted posts are subject to greater restrictions. It is the responsibility of every employee to clarify whether or not they hold a politically restricted post.

3.3. Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the advice in paragraph 3.1.

4. RELATIONSHIPS

4.1. Elected Members

Employees are responsible to the Council through senior managers. For some, their job is to give advice to Elected Members and the Council as a whole. All are there to carry out the Council's work. Mutual respect between employees and Elected Members is essential to good local government. Close personal familiarity between employees and individual Elected Members outside of work can damage the relationship and prove embarrassing to other employees and Members and should therefore be avoided.

4.2. The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all

groups and individuals within that community as defined by the policies of the Council.

4.3. Contractors

All relationships with contractors or potential contractors should be made known to the appropriate manager. To do otherwise contravenes the law. Orders and contracts must be awarded in accordance with the Council's Financial Procedure Rules and Procurement Procedure Rules. No favouritism should be shown to businesses run for example by friends, partners or relatives. No part of the community should be discriminated against.

5. APPOINTMENT/OTHER EMPLOYMENT MATTERS

5.1. All Local Government employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with as well as those required by law. All residents in the local community, customers and other employees have the right to be treated with fairness and equity.

5.2. Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an appointment to be made which was based on anything other than an assessment of the ability of the candidate. In order to avoid any possible allegation of bias, employees should not be involved in an appointment where they are related to an applicant or have a personal relationship outside work with the applicant.

5.3. Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

6. CONFLICTS OF INTEREST

6.1. Conditions of Service

Outside of normal working hours an employee is entitled to conduct themselves as they see fit. However, they should not ignore the role the Council plays in the local community and any actions/activities should not put the individual employee in a position where work responsibilities and private interests' conflict. The Council should not attempt to preclude employees from undertaking additional employment, but any such employment must not in the view of the Council, conflict with or react detrimentally to its interests, or in any way weaken public confidence in the conduct of the Authority's business.

6.1.1. As employer, the Council has to be satisfied that conflicts of interest do not occur. Failure by an employee to notify the Council of a possible conflict of interest may result in disciplinary action being taken against the employee concerned, including, in certain circumstances, the possibility of dismissal. The onus of complying with this is placed upon each employee.

6.1.2. This does not mean, of course, that every outside interest has to be declared. It is only where those interests might conflict with the work an employee does for the Council and it is not always easy to define this. A complete list cannot be given. They may or may not involve remuneration, fee or reward. They can occur through other employment such as plan drawing; from business interests, such as the purchase and sale of land; or by appointment to a voluntary or other body, such as acting as treasurer to an organisation which is grant aided by the Council.

6.1.3. Membership of any organisation not open to the public without formal membership and with a commitment to allegiance, or which has secrecy about rules, membership or conduct should also be declared. If you are in doubt about any particular activity, it is best to declare it.

6.1.4. The requirement to seek approval for outside employment does not apply to appointments as Elected Members of Local Authorities, Magistrates or Governing Bodies of Schools. However, it is a condition of the granting of any leave of absence to an employee in respect of these matters that the employee's Director or appropriate body concerned e.g. Governors, is satisfied that the work of the Group of Services/school will not suffer due to the absence of the employee on any particular occasion. Such applications should be discussed with the appropriate Director/Head of Service/Corporate Lead prior to giving an undertaking, to avoid unnecessary embarrassment.

6.1.5. Employees are required to devote their whole-time service to the work of the Council and not to take any further employment opportunities or engage in any other business without the express consent of the Council. Employees need specific permission from the Council to undertake outside work even if in their view the work could not possibly conflict with their duty as an employee of the Council.

6.1.6. The Council has granted a general approval to the involvement of employees on spinal column point 23 or above in work connected with the registration of electors and the organisation and running of local, Parliamentary and European elections.

6.1.7. However, an addendum was added to the Local Conditions of Service approved by the Staff Joint Consultative Committee and Personnel Sub-Committee on the 28th June 1979, and further approved by the Council on the 25th July 1979. This addendum states:

> *Employees at all levels must avoid getting into a position of conflict by undertaking outside work. It is considered that conflict arises when an employee is to be paid by a member of the public or any outside organisation or body for work which is in any way connected with the scope of his official duties, or with the exercise*

by his employing authority of one or more of its functions. Such work should not be accepted.

6.1.8. Even if the employment outside of the Council isn't a conflict-of-interest employees should be mindful that it shouldn't impact on their employment i.e., working too many hours, driving considerations, lateness and absence.

6.1.9. Although an employee's "off-duty" hours are their personal concern, extreme care must be taken to ensure that personal interests do not take preference over, or conflict with those of the Council. This is particularly relevant when an employee is considering accepting additional employment outside of the work environment. The Council does not wish to preclude employees from undertaking additional employment, but if there is a potential conflict of interest, the employee should inform their Director as to the nature of the work. Approval to undertake additional employment will be considered by the Director in consultation with the Corporate Lead, HR.

6.1.10. Council facilities, equipment, or documentation must not be used in the undertaking of any additional employment, and if any such unauthorised use is discovered then the Council will take the appropriate disciplinary action.

6.2. **Declaring a Conflict of Interest**

6.2.1. An Officer Register of Officers' Interests is maintained by the Monitoring Officer under Paragraph 10 of the Scheme of Delegations in Part C of this Constitution. Section 117 of the Local Government Act 1972 provides a statutory obligation on officers to disclose any interest in a contract involving the Council. Registration of interests protects an officer against allegations of non-disclosure. The content of the Register has been extended to cover other matters referred to in this Guidance (e.g. membership of clubs and societies) and all Directors have a supply of the Form to be used for registration which is also on the Council's Intranet.

6.2.2. The contents of individual forms will be considered by the Monitoring Officer.

6.2.3. Where employees wish or are asked to undertake lectures or talks during working hours, or wish to carry out duties as an examiner or invigilator for professional bodies during working hours, approval must be sought from the relevant Director.

6.2.4. Employees in certain Directorates can occasionally be placed in a position where, within the normal scope of their duties, they may be faced with the problem of making official professional decisions about matters in which they have a personal involvement. Examples of such

employees and Corporate Groups are Planning and Building Surveying employees within the Regeneration and Environment Group; Domiciliary Care Organisers in the Children, Adults & Health Group. The following general guidelines are issued for the assistance of employees.

6.2.5. In general terms employees must declare an interest if they have assisted in the completion of a job application form and are subsequently involved in the recruitment process for that post. Specifically, employees should not involve themselves or assist in the preparation and/or submission of applications to South Tyneside Council for planning permission, building regulations approval, assessment of need for domiciliary care etc., except for those applications relating to their own property or themselves or those of their immediate family i.e. sons/daughters/spouse/parents. It is essential that under these circumstances, the employee should not take any part in the processing/vetting and advising on such applications. If in doubt, advice from senior management should be sought.

6.2.6. This does not, of course, mean that employees should not assist members of the public with applications or discuss applications informally with them, in the normal course of their duties.

6.2.7. Employees preparing or submitting an application in accordance with 6.2.5. above, or having a direct, personal (not necessarily pecuniary) interest in an application by virtue of that application being submitted by or on behalf of a relative, should inform their Director in writing of that interest. In such cases the employee shall not take any part in the processing or determination of the application.

6.2.8. The decision whether or not to declare an interest must, of course, be left to the discretion and good sense of the individual employee. However, a good general guide will be for employees to ask themselves whether their judgement in regard to an application may or might be said to be impaired in any way by their relationship to, or friendship with, the applicant or that their employment in the Group of services might be said to influence the determination of the application.

6.2.9. Employees who hold membership of organisations, which by their nature could give rise to accusations of unfair preference in the awarding of contracts, job appointments or promotions should exercise caution at all times.

7. WORKING TIME REGULATIONS

7.1 Employees have an obligation to ensure that any working hours for another employer do not impinge upon their safety and wellbeing. Employees must ensure that their additional working hours do not lead to a breach of the Working Time Regulations. In particular:

- Employees must not exceed 48 hours per week on average over a 17-week period

- Employees must take a break between shifts for either employer of at least 11 hours

- Employees must take either a full 24-hour rest from work in any working week or a full 48-hour rest from work in any fortnight

7.2 Employees can choose to work more than 48 hours a week on average if they're over 18. This is called 'opting out'. Employees can opt out for a certain period or indefinitely. It must be voluntary and in writing. To opt out employees should complete the Opt Out Agreement Form. It must be returned to HR Operations Team to be included on the employee's personal file. Some employees can't opt out of the 48 hour week.

7.3 Employees can cancel an opt-out agreement whenever they want - even if it's part of their employment contract and they must give at least 7 days' notice.

7.4 Employees must also be mindful of the EU drivers' hours and tachograph rules if they do a driving job for the Council and work additional hours as a driver. Further advice about this can be sought from the Health and Safety Team in HR Services and via the following link https://www.gov.uk/drivers-hours/eu-rules

7.5 Employees breaching the requirements of the working time directive will be deemed to have placed themselves and the Council at risk by failing to safeguard their own health and safety and if after initial guidance and counselling they persist in excessive additional working, formal action may be taken via the Disciplinary Policy.

8 USE OF CONFIDENTIAL INFORMATION

8.1 The law requires that certain types of information must be available to Members, auditors, Government departments, service users and the public. Employees must be aware of the types of information which are confidential, and which are not and act accordingly, referring at all times to the Access to Information Protocol contained in this Constitution. The public is entitled to demand of a Local Government Officer conduct of the highest standard and public confidence in his or her integrity would be shaken were the least suspicion to arise that he or she could in any way be influenced by improper motives. No officer shall communicate to the public proceedings of any committee meeting, etc., nor the contents of any document relating to the Council unless required by law or expressly authorised to do so.

8.2 Employees should not use any confidential information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to

others who might use it in such a way. Any particular information received by an employee from an Elected Member or a fellow employee which is personal to that person, should not be divulged by the employee to anyone else without the prior approval of that person, unless it is reasonable for the employee to do so in the normal course of the duties of his/her post.

8.3 The Government has issued Circulars and Guidelines covering the confidentiality and security of personal information particularly in respect of employees directly involved in caring for clients, interviewing and gathering information on behalf of the Council and processing that information.

8.4 Confidentiality is particularly important in those services which are subject to competitive tendering. Disclosure of information to the Council's potential competitors, either deliberately or inadvertently could have serious implications for the Council unless it is reasonable for the employee to do so in the course of their normal duties.

8.5 Nothing is more damaging to the relationship between employees and Members of the Council and between the Council and the public than ill-considered discussions about the Council's business.

8.6 Some Directorates deal extensively in matters of a confidential and personal kind. Employees need to be particularly circumspect in what is said outside the Group of Services about matters which are going on inside it.

8.7 In all Directorates, the following guidelines should be adhered to:

8.7.1 Official documents, letters, memoranda, committee reports, agenda and minutes, files, plans, etc., should only be taken away from the office in connection with official Council business, where the employee is working in a hybrid way or where the employee wishes to carry out work away from the office on an ad hoc basis. Documents marked confidential should only be so removed where this has been previously agreed with an employees' line manager.

8.7.2 When working away from the office, confidential or sensitive conversations/work should not be carried out whilst in any public areas and other individuals (including family members) should not have access to confidential information/personal data. All printed or other paper records must be safely locked away when not in use. Personal and/or confidential information must not be disposed of via domestic waste, they must be securely stored until they can be disposed of securely i.e., using confidential waste facilities located in all Council offices.

8.7.3 It is important that the rules governing communication of Council information to the public are clear. The "public" must also be taken to read the "media" and employee's attention is drawn to the need for the Council's Press Office to be the principal point of contact with the media. However, there may be circumstances where of necessity, senior managers have to communicate with

the media. In such situations, the Press Office must be informed, and the contents of the discussion outlined.

8.7.4 Employees should not communicate confidential information or the contents of any documents to other employees of the Council who do not have a legitimate work involvement with the subject to which the information or document relates.

8.8 Employees handling any and all information should be aware of the implications of the UK General Data Protection Regulation (UK GDPR) and the entire data protection landscape that includes the Data Protection Act 2018. The UK GDPR sets out requirements for how organisations need to handle personal data, special category data and special offence data, which means any information relating to a living individual who can be directly or indirectly identified in particular by reference to an identifier. Personal information must be processed lawfully, fairly and in a transparent manner. Personal information shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Personal information must be adequate, relevant, and limited to what is necessary and must be accurate and, where necessary, kept up-to-date Personal information shall be retained only for as long as necessary and shall be processed in an appropriate manner to maintain security. Employees must have a lawful basis to process personal data. Consent is one of them but there are alternatives. For more detailed guidance please contact the Information and Feedback Manager. The ICO has produced a guide on GDPR which can be found here https://ico.org.uk/media/for-organisations/guide-to-the-general-data-protectionregulation-gdpr-1-0.pdf

9 ROLES DURING TENDERING

9.1 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised person, group or organisation unless it is reasonable for the employee to do so in the course of their normal duties. This duty of confidentiality extends to ex-employees.

9.2 Employees should ensure that no special favour is shown to current or former employees or their partners, immediate family, associates or any other person in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10 CORRUPTION

10.1 Employees must be aware that it is a criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. The employee may be required to justify any such reward.

11 USE OF FINANCIAL RESOURCES AND OTHER ASSETS

11.1 In addition, employees must ensure that they use public funds and other assets entrusted to them in a responsible and lawful manner, ensuring value for money to the local community and avoiding legal challenge to the Council.

12 **INDUCEMENTS TO PURCHASE**

12.1 Certain employees are in a position to place orders for goods and services on a regular basis. Suppliers occasionally offer relatively minor benefits which can incrementally amount to something of value over a long period of time. Employees should not take personal advantage of such offers; nor should they switch suppliers because of such offers. All orders must be placed with suppliers in accordance with the Financial Procedure Rules of the Council.

13 **SPONSORSHIP-GIVING AND RECEIVING**

13.1 Where an outside private organisation wishes to sponsor or is sought to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

13.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner or relative should unreasonably benefit from such sponsorship in a direct or indirect way without there being full disclosure to an appropriate manager of any such benefit. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

14 **BEHAVIOUR AT WORK AND OUTSIDE WORK**

14.1 Local Government employees are expected to conduct themselves to the highest standard both during and outside of working hours. At no time should the actions of an employee bring the Council's reputation into disrepute or weaken the public's confidence in an employee's integrity. Employees should also have an awareness of the effect their actions, behaviour, or remarks may have on colleagues. A lack of sensitivity may result in allegations of misconduct if complaints are received.

14.2 Employees should also maintain a high degree of confidentiality and must not use any knowledge or information gained through their employment with the Council to further either their own interests or those of a third party unless, in the case of the latter, this is compatible with the Council's interest. Employees should accept that the Council owns intellectual property or copyright created during their employment.

14.3 With regard to an employee's "off duty" conduct individuals should be aware that criminal offences, committed outside of the work environment, where the nature of the offence is such that the confidence of the Council, or the public,

in the integrity and character of the employee is affected, may lead to disciplinary action being taken, up to and including dismissal.

14.4 If an offence has been committed, the Council will consider whether the offence has any relevance to the suitability or ability of the employee to continue at work. In some cases the impact on employment will be very direct and the Council will have to take action of some kind. In considering what action to take in respect of offences committed outside of work, the Council will have regard to the reaction of other employees towards the offence and to whether the employee's conduct undermines the trust and confidence of the employer, its clients, those in the professional care of the employee, or the public.

14.5 It is increasingly popular for employees to become members of social networking websites (e.g., Facebook, Twitter etc) during their leisure time. Employees using these networks are required to be mindful of the need to conduct themselves in ways that will not bring the Council, its Elected Members, employees, partners or customers into disrepute. Where employees provide status updates or other information/ data that may be considered to be an abuse of their position, is overtly critical or derogatory about the Council as an employer, a local authority or leads to a breach of confidentiality, this will be considered to be a serious act of misconduct and will lead to disciplinary proceedings up to and including dismissal from employment.

PART E - CODES AND PROTOCOLS
SECTION 10 – EMPLOYEES CODE OF CONDUCT

APPENDIX "A"

1. It is worth stating at the outset that the statutory responsibilities placed on an officer are limited.

2. They are contained in Section 117 of the Local Government Act 1972. Briefly they can be summarised as follows:

   If an officer knows that a contract in which he or she has a pecuniary interest, direct or indirect, is before the Council, he or she must give notice in writing of his or her interest to the Council. In this context, a pecuniary interest includes that of a partner with whom the officer is living. Failure to comply with this requirement is a criminal offence. Section 117 also makes it an offence under guise of his or her office or employment to accept any fee or reward whatsoever other than his or her proper remuneration.

3. It must also be borne in mind that under the Prevention of Corruption Acts 1906-1916, if it is proved that any money, gift or other consideration has been paid or given to or received by an employee from a person holding or seeking to obtain a contract from the authority, it shall be deemed to have been paid or given or received corruptly as an inducement or reward unless the contrary is proved.

4. The Local Government and Housing Act 1989 as amended by the Local Government Officers [Political Restriction] Regulations 1990) identified Politically Restricted Posts. This has had an impact upon Paragraph 70(c) of National Joint Council Scheme of Conditions of Service.

5. Section 114 of the Local Government Finance Act 1988 includes a related requirement for the Chief Finance Officer to report cases where officers act unlawfully to the detriment of the Council.

6. Section 82 of the Local Government Act 2000 provides for the Secretary of State to issue, by Order, a Code of Conduct for local government employees which will be deemed to be incorporated in the terms and conditions of employment of all such employees (not issued yet).

SOUTH TYNESIDE METROPOLITAN BOROUGH COUNCIL

HOSPITALITY BOOK

RECORD OF OFFERS OF GIFTS, HOSPITALITY ETC.

Name of Officer/Recipient : .....

Date of Offer	Host/Company/Individual Making Offer	Hospitality/Gift Offered and to Whom (4)	Purpose/Event	Whether Accepted/ Declined	Signed	Date	Authorised by

Notes: 1. In accordance with the Council's Code of Conduct, all offers of gifts, hospitality or other such benefits should be recorded above and retained on the appropriate file held by the Chief Officer or Head of Service.

2. This form should be completed preferably before or immediately after any offer is made.

3. This confidential record will be retained on file and may be inspected by authorised representatives of the Director of Corporate Services.

4. This is intended to ascertain whether offered only to one person, group or generally available.

PART E – CODES AND PROTOCOLS

SECTION 11 - PLANNING PROTOCOLS

Code of Conduct for Members and Officers Dealing with Planning Matters

1 Introduction

1.1 This Code of Conduct supplements advice contained in the Members Code of Conduct contained in Section 2 of this Part of the Constitution, the Royal Town Planning Institute, Code of Professional Conduct and Local Government Association guidance document *'Probity in Planning - Advice for councillors and officers making planning decisions'* (dated December 2019). It provides guidance on applying the Code of Conduct and associated probity issues to planning matters. It also provides advice on the operation of the planning system in the Borough. The protocol is concerned not only with individual probity but with the integrity of the planning system, including the conduct of Members and Officers in its processes and procedures.

1.2 The protocol applies to all Members and Officers who become involved in operating the planning system. It is not therefore restricted to professional town planners and Planning Committee members.

"*Planning is a subject that excites strong passions; frequently creates winners and losers; involves the rights of others over individual property rights; and can involve decisions which have enormous financial consequences*."

(Extract from Nolan Committee report on Standards of Conduct in Local Government)

"*The purpose of planning is to help achieve sustainable development….. Sustainable development is about change for the better, and not only in our built environment … it is about positive growth – making economic, environmental and social progress for this and future generations. The planning system is about helping to make this happen*."

(Extract from Ministerial Forward National Planning Policy Framework)

"*Planning is a complex area for everyone to engage in. Elected Members have an essential role to play in delivering a planning system that, if engaged with effectively, can deliver both the needs of the current and future communities in their area*."

(Extract from Elected Members' Planning Skills Framework – Planning Advisory Service, Improvement and Development Agency)

"*Planning must not be seen merely as a regulatory function. It is a positive activity which can facilitate the right development in the right locations to stimulate the economy, protect the environment and make lives better*."

(Extract from Local Government Association Guidance – Planning at the Heart of Place-Shaping – The Planning White Paper and Local Development Frameworks)

The first Planning Code of Practice was adopted in the late 1990s and has been revised on a number of occasions since to reflect such documents as the Nolan Committee report, Part III of the Local Government Act 2000, and the local Code of Conduct for Councillors and co-opted members adopted by the Council in 2012.

The Planning Protocol supplements the Council's Code of Conduct. However, whilst the Planning Protocol and the Code of Conduct overlap, they have different purposes. The Code of Conduct is concerned primarily with individual probity and other aspects of conduct across the whole range of a Councillor's duties. The Planning Protocol is concerned with the integrity of the planning system and the conduct of Councillors and Officers in its processes and procedures.

The Planning Protocol also supplements the Royal Town Planning Institute's Code of Professional Conduct.

2 The Standards of Service that we will achieve

2.1 The Council is committed to providing a planning service of the highest standard. The Service will adhere to the principles of fairness, impartiality, openness and accountability.

2.2 The Council will make its planning decisions in an open and transparent manner, without discrimination, based on sound judgement, and for justifiable reasons.

2.3 All planning decisions will be taken in the interests of the whole Borough.

2.4 Members and Officers of the Council will operate in accordance with this Code of Conduct for planning matters.

2.5 A legal officer will attend all Planning Committee meetings.

3 General Role and Conduct of Members and Officers

"*Councillors exercise, quite properly, two roles in the planning system. They determine planning applications, arriving at a decision on granting or refusing permission by using planning criteria and by excluding non-planning considerations. They also act as representatives of public opinion in their communities*".

(Nolan Committee report on Standards of Conduct in Local Government).

"*As a local Councillor involved in planning matters, whether as a member of your authority's executive helping to draw up the spatial plan for your area, as a member of the planning committee deciding planning applications, or as a ward member, you have a crucial role to play in both making the new planning systems work and ensuring the best possible outcomes for your community*."

(Extract from "Positive Engagement – a Guide for Planning Councillors" – Office of the Deputy Prime Minister and Local Government Association)

3.1 South Tyneside Council has delegated its powers to make decisions on planning applications to its Planning Committee and, in certain circumstances, to Planning Officers.

3.2 Members and Officers have different but complementary roles. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council and it follows that instructions can only be given to Officers through a decision of the Council, its Cabinet or a Committee. A successful relationship between Members and Officers can only be based on mutual trust and understanding of each other's positions. This relationship and trust must never be abused or compromised. With this in mind Members must not put undue pressure on Officers or seek to influence their professional judgment of an application or enforcement matter and should comply and act in accordance with the Protocol on Member / Officer Relations.

3.3 Members will represent the views and interest of the community as a whole, and will not favour individuals, groups or localities when making planning decisions. The consideration of proposals for new development must be balanced against the wider public interest, and decisions will be taken on the basis of sound and defendable planning grounds.

3.4 No whip shall be applied in relation to planning decisions. In particular, Members should not discuss planning applications in political group meetings in order to decide how to vote on such applications.

3.5 No Member of the Council will put pressure on Officers for a particular recommendation.

3.6 In coming to a decision on a planning matter Members will:-

3.6.1 Act impartially and honestly;

3.6.2 Approach each application with an open mind;

3.6.3 Determine each application on its own merits in accordance with the law;

3.6.4 Ensure the reasons for their decision are accurately recorded in writing.

3.7 Officers responsible for advising Members will act impartially and in strict accordance with the Royal Town Planning Institute Code of Professional Conduct or other applicable professional code.

3.8 Officers in their role of advising Members shall provide:-

3.8.1 Impartial and professional advice;

3.8.2 Consistency of interpretation of planning policy;

3.8.3 Complete written reports covering all necessary information for a decision to be made.

4 Gifts and Hospitality

4.1 All Members and Officers who are offered gifts or hospitality in the course of their duties from people with an interest in a planning proposal will, wherever possible decline. If receipt of hospitality is unavoidable, Officers and Members will ensure that the minimal level is accepted and will declare the matter in the appropriate register of hospitality. The Members Code of Conduct requires all gifts and hospitality over £25 to be declared in writing.

5 Training

5.1 Given the nature of the role of Members in determining planning applications it is strongly recommended that all Members appointed to the Planning Committee for the first time receive initial training at the first available opportunity. Annual refresher training will also be arranged for Members. Given the complexity of the legislation Members are strongly advised to attend. Group leaders will be notified annually about attendance and training.

6 Declaration of Interests

6.1 In accordance with the Members Code of Conduct, Members must declare any Personal Interest / Disclosable Pecuniary Interest (as defined in the Code of Conduct) held by them or their partner, where it is relevant to a planning matter being considered. Where any such interest is declared the Member must not participate (or further participate) in any discussion of it or participate in any vote on it. The Member should leave the chamber whilst the matter is considered and voted upon.

6.2 Members must also bear in mind the potential for their interests to affect (or appear to affect) the decisions of the Planning Committee, even if

such interests do not amount to a Personal Interest / Disclosable Pecuniary Interest under the Code of Conduct The Local Government Ethical Standards Report (2019) has confirmed the potential for Member conflicts to arise that are not Disclosable Pecuniary Interests, and the need to withdraw from Committee meetings in that scenario. If a Member's interest in any matter may give rise to a conflict, it may not be appropriate for that Member to participate in the decision. Any Member doing so is at risk of breaching the General Obligations contained in the Code of Conduct, as well as making the decision of the Planning Committee vulnerable to legal challenge. Where a Member has such an interest in an application:

6.2.1 They should declare the interest and the nature of that interest;

6.2.2 Subject to any other applicable rules of this Protocol, they will be allowed to make representations, give evidence or answer questions about the matter; and

6.2.3 They should leave the meeting immediately after having declared their interest or after having made representations, given evidence or answered questions pursuant to paragraph 6.2.2.

6.3 Where a Member has such an interest and wishes to exercise their right to speak pursuant to paragraph 6.2.2 then the requirements of paragraphs 19.1 or 20.1 (as applicable) shall not apply to them. For the avoidance of doubt a Member who is not independent of the applicant within the terms identified in paragraph 20.1 shall not be allowed to speak in support of the application.

7 Development Proposals by Members and Officers

7.1 Members of planning committee and planning officers employed by the Authority will not act as agents for people pursuing planning matters within the Borough.

7.2 No Officer wishing to submit their own planning proposal to the Council shall play any part in the processing or the decision-making process in so much as it relates to that proposal. Similarly, no Officer who has knowledge of any planning proposal submitted by anyone with whom they have a close association, shall play any part in processing or the decision-making process as it relates to those proposals.

7.3 Except where the proposal is in accordance with the Council's Planning Policies, and is not the subject of any objections, it shall be reported to the Planning Committee for determination.

8 Lobbying of and by Members

8.1 The Council recognises that lobbying of Members of the Planning Committee is an acceptable part of the political process, but that such

lobbying should not lead to the impartiality or the integrity of any Member being called into question. If Members react to lobbying and express a fixed and public view on an application prior to its formal consideration by the Planning Committee this can lead to the Member being seen to have a predetermined the application and they would not be able to take part in the consideration of that application. With regard to lobbying, Members will:

8.1.1 Only give procedural advice;

8.1.2 Consider referring those lobbying to the relevant officer who can provide further advice;

8.1.3 Will not seek to meet an applicant or potential applicants alone;

8.1.4 If Members are minded to express an opinion on a particular proposal they will state clearly that they will reserve their final decision until after having heard all the relevant evidence and arguments at Committee.

8.2 Members will recognise that there is a high level of public expectation that such matters are dealt with fairly and openly, and that rules of procedure, rights of appeal and potential for Ombudsman Complaints and Judicial Review all mean that decisions must be arrived at only after hearing all relevant evidence.

8.3 If a member of the Planning Committee is lobbied on an application, then they should make an oral declaration to this effect at the beginning of the item, explaining the nature of the lobbying.

Predisposition

9.1 Predisposition is where a Member holds a view in favour of or against an issue (such as a planning application) but they have an open mind to the merits of an argument before they make the final decision at a Council meeting.

9.2 Members can be predisposed towards the outcome of a planning application including having a preliminary view about how they will vote before the planning committee meeting. However, they must have an open mind and be seen to have an open mind before coming to the final decision.

10 Predetermination and bias

10.1 Predetermination is where a Member is closed to the merits of any argument relating to a particular issue. Members must not appear as if they are closed to the merits of an argument before they make the final decision. In relation to pre-determination, section 25(2) of the Localism Act 2011 provides,

"...(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter..."

10.2 When considering if there is an appearance of predetermination or bias Members should consider the following test:

"Would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the Member had predetermined the issue or was biased?"

Particular care needs to be taken in the use of social media, such as Twitter, Facebook or Instagram, where it relates to decision making functions. The test is an objective one, whether the reasonable onlooker, with knowledge of the public statement, would consider the Councillor was predetermined or biased.

10.3 If a Member of the Planning Committee considers that they have predetermined the outcome of an application then they shall not take part in the consideration of that matter and shall withdraw from the Committee.

10.4 However, the Member may still speak for or against the application. In order to do so the Member shall move from the body of the Committee into the public gallery. Alternatively, they may remain in their seat whilst making representations. In either case they shall then withdraw from the meeting once any public speaking opportunities have been completed.

10.5 Where a Member who is pre-determined wishes to exercise their right to speak then the requirements of paragraphs 19.1 or 20.1 (as applicable) shall not apply to them. For the avoidance of doubt a Member who is not independent of the applicant within the terms identified in paragraph 20.1 shall not be allowed to speak in support of the application.

11 Pre-Application Discussion

11.1 The Council recognises the importance of pre-planning application discussions but acknowledges that, to avoid any suspicion that they become part of the lobbying process, such discussions should be subject to the following guidelines: -

11.1.1 It will be made clear that such discussions will not bind the Council to a particular decision and that any views expressed will be provisional and without prejudice;

11.1.2 Advice given will be based upon the development plan and material considerations; all Officers taking part in discussions will make it clear as to whether the proposal is likely to be delegated for decision;

11.1.3 A written note will be made of all such meetings and potentially contentious telephone calls.

11.2 As a general rule it is seen as inappropriate for Planning Committee Members to be directly involved in pre application discussions with developers. Should there be occasions where Members are involved it should be part of a structured arrangement with Officers including a senior planning officer.

11.3 Members may receive invites to attend presentations by developers or pre application public consultation events. Such events can be helpful in providing Members with information. If Members choose to attend such events, they need to be very careful to ensure that they do not express any view either for or against the proposal and should consult with Officers before accepting such invitations.

12 Officers Reports to Planning Committee

12.1 The Committee requires all reports that it receives to cover the following matters: -

12.1.1 Reports will be accurate and will include a summary of the views of those who are objecting to or supporting a proposal;

12.1.2 Reports will include reference to the relevant development plan policies, previous relevant site history and any other material considerations;

12.1.3 Reports will contain written recommendations, and any oral reporting will be accurately minuted;

12.1.4 Reports will contain a technical appraisal, which clearly justifies the recommendation, including an explanation of material considerations which justify a departure from the development plan should this be the case.

13 Public Speaking at Committee

13.1 Public speaking and presentations by objectors or applicants will be allowed at Committee meetings in accordance with the agreed Committee protocol for Speaking at Planning Committee.

14 Decisions Contrary to Recommendation

14.1 The law requires that all decisions on applications must be taken in accordance with the development plan, unless material considerations indicate otherwise. Members, having considered all the relevant policies and material considerations, are perfectly entitled to reach a different conclusion to officers when considering the merits of an application. However, such decisions must be based on planning considerations and evidence must be available to defend the resolutions put forward.

14.2 Should any Member of the Committee be concerned about an officer recommendation, they should discuss their area of difference and the reasons for that with officers, in advance of the committee meeting. This will assist in ensuring Members are fully aware of all material considerations on which the officer recommendation is based. Care must be taken in such discussions that the Member does not become predetermined in relation to the decision.

14.3 Should the Planning Committee be minded to refuse or grant an application contrary to the Officers recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. A decision to defer should be taken after having regard to the legal and planning advice already provided at the meeting. A deferral will allow Members to obtain further legal or other professional advice on the proposed reasons for refusal or on suggested appropriate conditions before the final decision is made.

14.4 Alternatively, the Planning Committee should consider if a short adjournment of the meeting would be appropriate, to obtain the same advice as is mentioned in paragraph 14.3 above.

14.5 If on receiving the additional report Members do make a decision contrary to the Officers' recommendation, a detailed minute will be made of the Committee's reasons, and a copy will be placed on the application file. Officers will be given the opportunity to explain the implications of any contrary decision before it is made. Any such decision contrary to Officers' advice must be expressed clearly and must be based upon sound planning reasons supported by evidence.

14.6 In the case of conditions which the Planning Committee wish to add or amend and which cannot be accurately drafted at the meeting, formal approval may be delegated to the appropriate Head of Service in consultation with the Chairperson and Vice-Chairperson.

15 Planning Committee Site Visits

15.1. All requests for site visits will be considered on their merits in accordance with the following criteria:

15.1.1 Members are of the view that full and proper consideration of the proposal and likely impact of it can only be given with the benefit of a site visit;

15.1.2 The matter can only safely be determined after information has been acquired directly from inspecting the site;

15.1.3 The comments of the applicant or objector would be better understood by inspecting the site.

15.2 The reason for holding a site visit must be recorded in the minutes.

15.3 Ward Members will be invited to attend the visits for applications in their Ward

15.4 At each site visit Members will hear a description of the proposal by a relevant Officer and will hear an explanation of the material planning considerations and a brief justification for the recommendation.

15.5 The purpose of the visit is to see the site and its surroundings. No discussion shall take place on the merits of the application and no decision will be taken at a site visit.

15.6 Whilst applicants will be informed of the site visit, should they attend, they shall remain out of earshot and will not be allowed to participate or be approached by Members.

15.7 The Planning Committee will similarly not hear any objectors to a proposal at a site visit. All objectors will remain out of earshot. They will not participate in the visit and will not be approached by Members.

15.8 Members who have an interest in the application of the type identified in paragraphs 6.1 or 6.2 above shall not attend the site visit. However, if they are present on the site visit tour due to the need to attend other site visits that are taking place that day they shall not take part in the tour of the site relating to the application.

15.9 At the next meeting of the planning committee the planning officers will make an oral report on the site visit having regard to any additional information received.

15.10 Members should attempt to attend site visits. If a Member has been unable to attend a site visit, they should, before subsequently taking part in consideration of the application and voting on the matter, be satisfied that they are in receipt of sufficient information about the application to make a reasoned decision.

16 Review of Decisions

16.1 The Planning Committee will undertake an annual site visit to a number and range of sites to view implemented proposals. The purpose of such a visit will be to decide whether any review of policy or practice will be necessary.

Protocol for Public Speaking at Planning Committee Meetings

17 Introduction

17.1 The protocol is designed to give the public a fair hearing during the decision-making process. However, it does not give the public an absolute entitlement to speak. The Committee may use its discretion to disapply any provision of the protocol where particular circumstances make it impractical, unreasonable or unfair to adhere to the protocol. Members will also note that the Code of Conduct makes provision for public speaking at Planning Committee meetings.

18 Protocol

18.1 The protocol itself will relate only to planning applications being considered by Planning Committee meetings. It does not apply to other matters considered by the Committee such as Tree Preservation Orders and enforcement matters. It will complement the existing public consultation arrangements for planning applications such as neighbour notification, press and site advertisement etc. The members of the public will be permitted to speak in accordance with the following guidelines, with the objectors speaking first, followed by the supporters of the application (if any) and finally the applicant.

18.2 The procedure to be followed when members of the public address the Committee shall be as follows:

18.2.1 Chairman introduces the item;

18.2.2 Planning Officer presents the report;

18.2.3 Chairman invites members of the public to speak, with the applicant speaking last;

18.2.4 Planning Officer responds as appropriate;

18.2.5 Committee debates the application;

18.2.6 The vote is taken.

19 Objectors

19.1 A member of the public or their representative will be allowed to speak where he/she had lodged a written objection to a planning application within the statutory consultation period:

19.1.1 Stating the grounds of their objection;

19.1.2 Indicating at the same time that they may wish to speak at Planning Committee; and

19.1.3 Giving five clear working days' notice confirming their intention to speak.

19.2 The objectors to an application will be allowed to speak first.

19.3 Each objector will be allowed no more than 5 minutes to speak.

19.4 The objectors will be called upon to speak in alphabetical order in the absence of the Committee determining otherwise.

19.5 Where there is more than one objector, objectors will be encouraged to nominate one spokesperson. If they fail to do so the Committee may decide that it is unable to hear all objectors personally depending upon the numbers involved. In this event it will decide who should be heard and in what order.

19.6 Where a petition is received only the chief petitioner will be allowed to speak on behalf of those objectors who have signed the petition and will be allowed no more than 5 minutes.

20 Supporters of the Proposal

20.1 Supporters of the proposal who are independent of the applicant (not being related to the applicant, in a business relationship with the applicant, or liable to benefit financially from the proposal), will be given the opportunity to speak in support of the proposal provided they have lodged a written request to that effect and given 5 clear working days' notice of their wish to speak.

20.2 Each supporter will be allowed no more than 5 minutes to speak.

20.3 The supporters will be called in alphabetical order to speak in the absence of the Committee determining otherwise.

20.4 Where there is more than one supporter, supporters will be encouraged to nominate one spokesperson. If they fail to do so the Committee may decide that it is unable to hear all supporters personally depending upon the numbers involved. In this event it will decide who will be heard and in what order.

20.5 Where a petition in support is received, only the chief petitioner will be allowed to speak on behalf of those supporters who have signed the petition and will be allowed no more than 5 minutes to speak.

21 Ward Members

21.1 Ward Members will be allowed to speak if appearing as a representative on behalf of one or more of their constituents, either in support of or against an application. Where a Ward Member wishes to speak under this paragraph the requirement to give written notice (referred to in paragraphs 19.1 or 20.1 as applicable) shall apply to them.

22 Applicants

22.1 Where an objector speaks the applicant (or his/her agent) will be given the opportunity to respond verbally to any objection made provided they have given 24 hours' notice of their intention to do so (save that no notice must be given when responding to a Planning Committee Member who has declared an interest / pre-determination and speaks either for or against the proposal). The applicant (or the agent) will be allowed no more than 5 minutes to speak or (at the discretion of the Chairman) no more than the total time allowed for all objectors.

22.2 The applicant will not be permitted to speak simply to support his or her proposal.

22.3 Where a planning officers report recommends refusal of planning permission the applicant (or their agent) will be permitted to speak, even where there is no objector wishing to speak, but should give at least 5 clear working days' notice of their intention to do so. The applicant or agent will be allowed no more than 5 minutes to speak.

23.3 Where a Member of Planning Committee who is pre-determined exercises their right to speak against an application the applicant (or his/her agent) if present will be given the opportunity to respond verbally to the objection. However, the applicant (or agent) will only be allowed to speak once where there are other objectors and/or the planning officer's report recommends refusal. The applicant will be allowed no more than 5 minutes to speak or (at the discretion of the Chairman) no more than the total time allowed for all objectors.

23 General

23.1 Members of the Planning Committee will not enter into any debate with either the objectors or the applicants.

23.2 The Chairperson of the Committee may clarify any ambiguities.

23.3 The objectors and applicants will not be allowed to question each other.

23.4 A person making representations will not be allowed to speak more than once. On some occasions planning applications are deferred for site visits or further information before a decision is made. In these cases persons making representations may only do so at one committee, unless the Committee decides that significant new information has been

raised which justifies the giving to any such person the opportunity to make further representations.

23.5 New documents should not be circulated to the Committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material arising. Late information might lead to a deferral. This will be made clear to those who intend to speak. If a speaker wishes to submit any supporting material including photographs this must be submitted at least 5 clear working days before the Committee meeting. Any material submitted after this time will only be accepted at the discretion of the Chair in consultation with the Legal Services Officer. Material submitted will be summarised for the Committee in the Planning Officer's presentation.

23.6 Where a Member is not present at a meeting where representations have been made but is present at the meeting where the decision is to be made, they should not vote unless they are satisfied that they have sufficient information about the application to make a reasoned decision.

PART E CODES AND PROTOCOLS

SECTION 12 - FORMAT AND CONSIDERATIONS RELEVANT TO A HEARING BEFORE THE LICENSING COMMITTEE

In order to ensure all parties are on an equal footing before any Licensing hearing and to ensure a fair hearing for all concerned the Licensing Committee have adopted the following procedure which will, in the absence of any circumstances giving cause to vary the same, be followed in determining all matters before it.

1. The Council's Solicitor in attendance at the Committee will identify all members/officers of the Council and ask all persons attending the hearing to identify themselves.

2. The Licensing Officers will present a report outlining the nature of the matter before the Committee and all issues which arise from the matter or which they had been able to establish from any objections received.

N.B. The Committee expect and anticipate that all parties, including objectors, to a matter before it will have endeavoured to work closely with the Licensing Officer, prior to the hearing, to establish what the issues are that the Committee will be called upon to consider.

The Officers Report will:

a. Confirm what the hearing is for, the nature of the Licenses involved, who any application for the hearing is from and the premises concerned, if any.

b. State the nature of the objections received, if any, and from whom.

c. May, where relevant, highlight aspects of the National Guidance and Local Policy that are considered to be relevant in relation to the issues concerned.

d. Include observations of any suggested conditions which may have been offered as acceptable by any party, if the Committee concludes certain action as appropriate.

3. Any objectors will be invited to give further information by calling such evidence as is necessary to deal with the issues they wish to raise which are not agreed/accepted by the applicant.

   Where any evidence to be called by the objectors has been able to be agreed in advance with the applicant it may if relevant to the issues before the Committee be read out at the hearing.

   In order to avoid repetition objectors from the same group of interested parties must appoint an agreed spokesperson to identify the salient points of the objection.

4. The applicant and members of the Committee will be given the opportunity to ask questions of any of the objectors or their witnesses in relation to the issues raised.

5. The applicant will be invited to give further information by calling such evidence as is necessary to deal with the issues identified in relation to their application.

   Where any evidence to be called by the applicant has been able to be agreed in advance with the objectors it may if relevant to the issues before the Committee be read out at the hearing.

6. The objectors will be invited to sum up their case drawing together their main points succinctly and briefly to confirm their views.

7. The applicant will be invited to sum up their case drawing together their main points succinctly and briefly to confirm their views.

8. The Committee will retire to consider the matter before it and may request the presence of the Council's Solicitor to be in attendance during its deliberations, to ensure that all matters of law, evidence and procedure are adhered to appropriately.

9. The Committee will give a brief indication to the parties of the decision they have reached. This will be followed up in writing within the statutory time limits.

General Principles

All parties will be expected to demonstrate which of the 4 licensing objectives are addressed in relation to each of the issues they wish to raise at the hearing and to draw to the Committee's attention any relevant aspects of the National Guidance or Local Policy which they also consider are particularly relevant to the Committee's consideration of the issues raised by themselves.

The Council's Solicitor in attendance at the Committee may ask questions on behalf of, or in addition to, any party or person present themselves.

The Council expects all parties to a hearing to endeavour to address any issues openly and work towards an amicable resolution, if at all possible, prior to the hearing taking place.

If for any reason a party to a hearing is unable to attend, they should contact the Licensing Officers as soon as possible to advise of the reasons why and how, if at all, the party considers they may be affected if the hearing was to proceed in their absence.

PART E CODES AND PROTOCOLS

SECTION 13 - GUIDANCE FOR COUNCILLORS ON MEMBERSHIP OF OUTSIDE BODIES

Introduction
This guidance is intended to help Councillors understand their duties when appointed to outside bodies, and how to handle the conflicts of interest that can frequently arise. It is not a fully comprehensive guide, so if Councillors have any queries, they can obtain further advice from the Monitoring Officer or Corporate Lead, Legal and Governance.

1. General

1.1 Membership on outside bodies can take various forms and it would be prudent to establish the capacity in which a Councillor is appointed. The first question is whether the Councillor is appointed by the Council, or in some other capacity. If the Councillor is not appointed by the Council to a particular position, they do not owe the Council any duties in relation to the way in which they carry on their membership of the outside body. However, the normal rules on declaring interests apply, and they will need to consider whether their role gives them a prejudicial interest in relation to any Council business. The remainder of this guidance covers the case where they are appointed by the Council.

1.2 If a Councillor is appointed by the Council, this may be either:

a. as a member of the management committee, board of directors, or committee of trustees of the outside body. Here, they will not only be representing the interests of the Council, but they will also have duties to the outside body and a role in its governance. If they serve in a decision-making capacity or have a position of general control or management on the outside body, whether company, trust or other association, they owe duties and responsibilities to that body which are separate and distinct from their duties owed to the Council. On occasion, it is likely that duties owed to the outside body and to the Council, will conflict e.g. If the Councillor is the treasurer of an outside body who has applied to the Council for grant funding and the rest of this guidance gives more detail on this; or

b. As an ‘observer’, or an ordinary member, or undertaking a monitoring role, facilitating exchanges of views or information as an extension of their Council duties, but taking no part in the outside body’s management or governance, other than to attend and vote at annual or general meetings. Here, the Councillor will be mainly concerned with representing the Council and will not have responsibilities for governance of the body.

3. What sort of roles does this guidance apply to?

2.1 This guidance applies where the Councillor is: a director of a company in which the Council has an interest; a member of another authority; a trustee of a charity; or a member of the management board for an unincorporated body.

2.2 The various roles will give the Councillor responsibilities to the organisation, and to the Council in so far as they are fulfilling a role for the Council, and this creates

potential conflicts.

2.3 Their responsibilities will depend on the type of body in which they become involved. The main types are as follows:
a) **Companies:** Companies are separate legal entities. They are set up by their members, who may be either shareholders or guarantors. Liability of company members is limited to the value of their shares or by guarantee. Directors of companies have a duty to the company to act properly and in good faith. If not, they can incur personal liability, particularly if the company becomes insolvent. The activities and operation of companies are regulated by their Memorandum and Articles of Association, and also by company law.

b) **Unincorporated Associations:** Unincorporated associations are informal organisations. The members regulate their relationship by agreement, such as a membership agreement or the rules of the club or association. Because the association has no legal existence separate from its members, the liability of the members is not limited. Each member can incur personal responsibility for liabilities incurred on behalf of the association, and relies on the membership agreement to be able to recover his/her costs from the other members.

c) **Charities:** A charity is an organisation which (a) is established for charitable purposes only, and (b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities. Some companies and unincorporated associations are established for charitable purposes. A charity gains relief from corporation tax, VAT and business rates but is subject to stricter regulation by the Charity Commissioners, to ensure that it is properly managed and that it is spending its money properly on the charitable objects. As a trustee of a charity, there is a duty to act in the best interests of the charity and an individual can be personally liable if you breach that duty.

4. Some other key points to consider at the outset

3.1 Firstly, a Councillor must make sure they are given a clear statement of what is expected of them if they are going to be nominated. The Council should be able to obtain this from the organisation involved.

3.2 **The duty to act in the interests of the outside body** - Being on an outside body can bring many benefits to the Council, the organisation and the community, but it will sometimes create conflicts with a Councillor's work as a Councillor. For Council Members, it will have to be included as one of their interests in the Members' Register of Interests. A Member will have a personal interest in Council business referring to it, and sometimes a prejudicial interest in the form of a Disclosable Pecuniary Interest where finances or regulatory matters are concerned. A Councillor will need to be sure that involvement with the organisation will not prevent them from fully participating in their work as a Councillor, particularly in areas that interest them, or, where they need to represent the community who elected them. This will depend on the nature of the body and type of involvement.

3.3 On the other hand, the Councillor will also need to make sure that they are able to commit enough time and attention to the organisation. They will want to make a meaningful contribution to their work too. If a Councillor cannot attend meetings very often, or are often conflicted out of participating, they will not be able to give the support that the organisation needs, and this will reflect badly upon the Council and upon the Councillor. It is best not to be appointed if a Councillor cannot participate fully.

3.4 **Conflict with your role as a councillor -** As a member of the organisation's management committee, as a director of a company, or as a trustee, a Councillor will

not only be representing the interests of the Council, but they will also owe duties and responsibilities towards the organisation. They will have to exercise their own best judgement in the best interests of the outside body and they cannot just take instructions from the Council although they may take account of the Council's wishes. Where the Council's wishes may conflict with the best interests of the outside body the Councillor must nevertheless, if taking decisions for that outside body, act in its best interests. **Therefore, where the Council's interests and the outside body's interests conflict it is better not to involve oneself in the decision-making.**

3.5 **Indemnities** - Councillors who participate in external bodies may be indemnified in relation to liabilities they incur in that capacity, though this is subject to certain limitations, which are set out in more detail at paragraphs 8.1 to 8.4 below.

4. Duties and Responsibilities of Councillors on Outside Bodies

4.1 The following is a summary of the main duties and responsibilities of Councillors who are nominated by the Council to the most common types of outside body. The main principles of the obligations applying to company directors also apply to trustees and members of management committees. If a Member is in doubt about their duties and responsibilities, they may seek advice from the Monitoring Officer or Corporate Lead Legal and Governance. In many cases, however, it will be more appropriate to seek advice from the advisers to the body involved, as they will
have access to the rules and protocols of the body.

5. Companies

5.1 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors. The Council itself may be a member of the company, either a shareholder or guarantor.

5.2 If the body is a limited company, and a Member is asked to be involved, it is likely that they will be appointed as a company director. The duties of a company director are set out in the Companies Act 2006. The management of a company is usually the responsibility of the Board of Directors. Directors' powers are usually set out in the company's Articles of Association. Another important document is the Memorandum of Association, which sets out the Company's objectives and powers.

5.3 The duties of a company director are not the same as their responsibilities as a Councillor. Basically, when involved in company business, the company **must** come first. Directors must act in the interests of the company, and not in the interests of other parties, including shareholders.

5.4 **Directors' Responsibilities** are:

a) To **promote the success of the company**, A director's primary duty is to act in good faith, in the best interests of the organisation and its objects. All directors owe a fiduciary duty to their company, which means they owe loyalty to the company and a duty of care to act in the best interests of the company, having regard to the interests of the members or shareholders of the company, the company's employees, and creditors. This includes having regard to the likely long-term consequences of decisions, the interests of employees, fostering relationships with suppliers and customers and others, the impact of operations on

the community and environment, maintaining a reputation for high standards of business conduct, and acting fairly between members of the company.

b) To **exercise care, diligence and skill**, using their own knowledge, skill and experience, together with the care, skill and diligence which may reasonably be expected of a person who is carrying out the functions of a director. So a director with significant experience must exercise the appropriate level of diligence in exercising their duties in line with their higher level of expertise.
Although directors are not bound to attend all meetings of directors, attendance should be as frequent as possible, and directors should ensure that they are reasonably informed at all times.

c) **Not to exceed powers**. A company director must act in accordance with the company's constitution, and exercise powers for the purposes for which they were given.

d) **To comply with the Companies Acts** in relation to the keeping of accounts and ensure that the relevant returns are made to the Registrar of Companies. Failure to do so will incur fines and persistent default can lead to disqualification as a director.

e) **To avoid conflicts of interest**. A director must avoid a situation in which he or she has, or may have, a direct or indirect interest which conflicts, or could conflict, with the interests of the company. This duty applies particularly to transactions between a director and a third party in relation to the exploitation of any property, information or opportunity.

f) **To exercise independent judgement**. A director nominated by the Council cannot, for example, simply vote in accordance with the Council's instructions. To do so would be a breach of duty. The director must act in the company's interests.

g) **Not to accept benefits from third parties**. A company director must not accept any benefit from a third party (whether monetary or otherwise) which has been conferred because of the fact that he or she is a director. This is based on the established principle that a director must not make a secret profit as a result of being a director. This duty applies unless the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

h) **To declare an interest in a proposed transaction or arrangement with the company**. A company director who has either a direct or an indirect interest in a proposed transaction or arrangement with the company must declare the 'nature and extent' of that interest to the other directors before the company enters into the transaction.

5.5 **Directors' Liabilities**: If a director fails to carry out his/her duties, action can be brought for breach of duty, either by the company itself, or by a liquidator if the company goes into liquidation, or with the consent of the court, by a shareholder. Such actions are unlikely where the company is properly controlled by the directors.

5.6 Some important considerations are:

a) It is not always easy to reconcile the various factors which must be taken into account when reaching a major decision. The important thing as a director is to show that you are aware of and have taken account of the relevant factors and have exercised due care and diligence in giving them all fair consideration.

b) It may be difficult to be certain whether benefits may be regarded as giving rise to a conflict of interest. If a Member is unsure take advice from the company's advisers.

c) A Member must make sure they are aware of the company's constitution; it's Memorandum and Articles of Association, so that they know what it can and cannot do. They must take this into account when making decisions, as well as any shareholder decisions that are relevant.

d) A Member must be diligent, and make sure they are well informed about the company's affairs. They must make sure they are well briefed when taking up the role, and that they receive regular briefings throughout their term of office.
e) Attend training and briefing sessions.

g) Consider whether they require insurance to be in place.

h) Some Board decisions may be reviewed on a future occasion. Make sure detailed minutes show that all necessary factors have been considered when major decisions are being taken. Obtain expert advice where necessary e.g. regarding impact of a decision on the environment. Take legal advice where there are doubts about a director's duty in relation to a particular matter.

5.7 **Local Authority Controlled and Influenced Companies:** There are special rules that affect companies in which councils have major interests. These are 'regulated' companies for the purposes of the Local Government and Housing Act 1989. They are in effect controlled by (more than 50% interest) or subject to a council's influence (20% interest plus business relationship) because of its level of interest, either individually, or with a group of other authorities. They will generally be subject to the local government capital finance regime and special propriety controls. However, so far as Members who are involved are concerned, there are some additional requirements that need to be complied with as follows:

44.2.1 Remuneration that Councillors receive from the company should not exceed that received from a local authority for a similar role, and it must be declared.

b) To provide information to Councillors about their activities as required by the local authority (unless it is confidential); and

44.2.2 To cease to be a director immediately if disqualified as a Councillor.

6. Unincorporated Associations

6.1 "Unincorporated associations" have no separate identity from their members. The rules governing the members' duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. Management Committee members must act within the constitution and must take reasonable care in exercising their powers. An unincorporated organisation may be charitable and may register as a charity.

6.2 If a Member is involved in a decision-making capacity or have a position of general control or management on an unincorporated body, as the body has no separate corporate status, any liabilities will fall upon them personally. Councillors appointed to such bodies should familiarise themselves with the Constitution to understand the nature of their role,

responsibilities and liabilities, and should assess the risk of personal liability, and the extent to which it has been or needs to be covered by insurance.

7. Charities:

7.1 A charity is an organisation which operates for the public benefit and exclusively charitable purposes, either:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community.

7.2 A number of useful publications are available on the Charity Commission's website at www.charitycommission.gov.uk. Publication CC3 - 'The Essential Trustee- What you Need to Know' is a useful guide https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3 . Those who are responsible for the control and administration of a charity are referred to as its *trustees*, even where the organisation is a company limited by guarantee and even though they are not strictly trustees. A charity may also be unincorporated.

7.3 Trustees of a charity retain personal liability, and can only delegate to the extent that the constitution authorises them so to do.

7.4 Charitable Trustees' Responsibilities are:

a) To act in accordance with the charity's trust deed or governing document.
b) To protect the charity's assets.
c) To comply with the Charities Acts, and the Trustee Act 2000.
d) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission.
e) To perform their duty with the standard of care which an ordinary, prudent businessperson would show. Higher standards are required of professionals, and in relation to investment matters.
f) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
g) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

9.1 **Charitable Trustees' Liabilities**: Generally, a trustee may incur personal liability if he/she:-

- acts outside the scope of the trust deed
- falls below the required standard of care
- acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
- makes a personal profit from the trust assets

7.6 In such circumstances the trustee will be in breach of trust and will incur personal liability for losses incurred. If in doubt, always consult the Charity Commissioners. A Member appointed as a Trustee may avoid personal liability for breach of trust if they act in accordance with Charity Commissioner advice.

7.7 Trustees can incur personal liabilities for contracts they enter into in the name of the charity. They will normally be entitled to be reimbursed from charitable funds for liabilities and expenses properly incurred by them. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course of events, but will be personally liable if they commit a breach of trust, as stated above.

8. Indemnities

8.1 Councillors who participate in external bodies may be indemnified in relation to liabilities they incur in that capacity, though this is subject to certain limitations.

8.2 Indemnity by the outside body:

a) Directors: Directors cannot be indemnified by the company against liability for negligence, default, breach of duty and trust. Companies can however purchase insurance to protect directors against claims of negligence, default, breach of duty and trust. Those appointed as directors should ensure that appropriate insurance is in place. Companies can, if their Articles of Association allow, provide for directors to be indemnified for the costs of defending such a claim if they are granted relief by the court or acquitted.

b) Trustees: Provided a charitable trustee acts properly, and within his/her powers, indemnity can be given from the trust fund. Trustees can take out insurance to protect themselves from personal liabilities, but not for criminal acts such as fraud. If the premiums are to be paid out of the charitable funds, the consent of the Charity Commissioners will be needed.

c) Unincorporated Associations: Members may be entitled to an indemnity if they act in accordance with the Constitution of the association and are not at fault. However, regard must be had to the terms of the constitution. The constitution will determine whether insurance can be paid for by the organisation.

8.3 Indemnity by the Council: The Council may provide an indemnity where Councillors are acting on an outside body at the request of the Council, and provided:

- the appointment was made by the Council, or
- the nomination was made by the Council, and
- the appointment was specifically approved for the purpose of the indemnity.

8.4 The indemnity the Council can provide is subject to limitations. In general terms, if a Councillor is acting properly, within their powers and in good faith, the power to indemnify will usually apply. However, the Council cannot, for example, provide an indemnity in relation to any action or failure by any Member which constitutes a criminal offence, or for any action or failure by any Member which is the result of fraud, or other deliberate wrongdoing or recklessness on the part of the Member. When serving on an outside body, the Council's indemnity will only apply after any indemnity or insurance from the body itself. There are further limitations and it is advisable to be clear about the scope of any Council indemnity that may be available to you. All Councillors should seek further advice on indemnity from the Council's Insurance Advisor.

9. Code of Conduct – Councillors' Interests

9.1 Code of Conduct: All Councillors are subject to the Council's Code of Conduct for Members (Part E Section 2). When Councillors act as representatives of the Council on another *authority*, they must comply with the other authority's Code of Conduct. However, when Councillors act as the Council's representative on any other sort of outside body, they must comply with the Council's Code of Conduct unless it conflicts with the lawful obligations of the other body.

9.2 The Register of Interests requires Members to tell the Monitoring Officer in writing within 28 days of taking office, or within 28 days of any change to their Register of Interests, of any interests which fall within the categories set out in the Code of Conduct. These categories include membership or position of control or management in any other bodies to which the Member is appointed or nominated by the Council.

9.3 This means that if a Councillor is present at a meeting when an item of business arises which relates to or affects an outside body to which they have been appointed, they must declare that they have an interest, and the nature of that interest, before the matter is discussed or as soon as it becomes apparent to them. I A Councillor has a Disclosable Pecuniary Interest they must declare it and must then leave the meeting room, unless they have a dispensation.

9.4 Bias: Where a Member might be inclined to the view that they have no prejudicial interest, their duties as a director, or trustee, or member of a management committee may well be regarded, on an objective appraisal, as giving rise to a legitimate fear of lack of impartiality, especially having regard to the desirability of maintaining public confidence. Participation in the decision making at a Council committee meeting by a Councillor who is biased potentially invalidates the decision.

9.5 Where membership of the outside body is on an advisory or consultative basis, bias will not be assumed from mere membership. However, once the outside body has a line which is being advocated by the Member, this could potentially be viewed as bias, and the Council's decision on the issue could be vulnerable to challenge if the Member participates in those circumstances. It will depend on the facts, and in such circumstances, advice should be sought from the Monitoring Officer or Corporate Lead, Legal and Governance.

PART E CODES AND PROTOCOLS

SECTION 14 – PROTOCOL ON GIFTS AND HOSPITALITY FOR COUNCILLORS AND OFFICERS

Introduction

This Guidance is intended to complement the Council 's Members' Code of Conduct. It offers guidance to Councillors with regard to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect both individual Councillors and the Council itself. The intention of the Guidance is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.

This protocol sets out Councillors' obligations to declare gifts and hospitality received in their capacity as Members of the Council and to provide guidance on those obligations. A breach of this protocol amounts to a breach of the Council's Code of Conduct and a complaint can be reported to the Monitoring Officer and dealt with in accordance with the Members' Code of Conduct Complaints Procedure.
The Code does not require the declaration of the receipt of any gifts or hospitality by the spouse/partner of a Councillor, but this may be done voluntarily by the Member concerned.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council.

What are the rules?

The Member Code of Conduct provides:

A councillor must 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 their part to show favour from persons seeking to acquire, develop or do business with South Tyneside Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.
The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for every Councillor in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered, having regard to how it might be perceived.

A councillor must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

A councillor must register with the Monitoring Officer or Corporate Lead, Legal and Governance any significant gift or hospitality that a councillor has been offered but has refused to accept.

In order to protect their position and the reputation of the Council, a Councillor should exercise caution in accepting any gifts or hospitality which are (or which a councillor reasonably believes to be) offered to them because they are a councillor. 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 impolite or discourteous in which case a councillor could accept it but must ensure it is publicly registered. However, a councillor does not need to register gifts and hospitality which are not related to their role as a councillor, such as Christmas gifts from their friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with the duties as a councillor. If a councillor is unsure, they should contact the Director of Governance & Corporate Affairs (Monitoring Officer) or Corporate Lead, Legal and Governance for guidance.

As part of their civic duties the Mayor and/or Deputy Mayor will receive a number of gifts and offers of hospitality. The provisions of this Code are applicable to all members of the Authority and apply equally to the Mayor and Deputy Mayor, insofar as they are not inconsistent with the following provisions. There is likely to be proper reason for accepting a civic gift or hospitality by the Mayor and/or Deputy Mayor as there is likely to be a commensurate benefit for the Authority which would not have been available but for the acceptance of that gift or hospitality. Acceptance of civic hospitality provided by another public authority can confer an advantage on the Authority, such as an opportunity to progress the business of the Authority expeditiously or to canvass the interests of the Authority and the South Tyneside area. As a general principle all gifts made to the Mayor and/or Deputy Mayor during the exercise of their civic duties belong to the Council and must be passed to the Civic Support and Events Officer as soon as possible. However, small token gifts, e.g. estimated to be below £25.00, received by the Mayor/Deputy Mayor in their civic capacity which are personalised, e.g. a cup with their names on it, flowers, etc may be retained by the Mayor/Deputy Mayor. Offers of hospitality to the Mayor/ Deputy Mayor in their civic capacity will normally be made through the Mayor's office and fall outside of this provision for proper and legitimate reasons. In those cases, details of the hospitality received will be recorded and retained by the Mayor's Office. In the event of gifts or hospitality being offered to the Mayor/ Deputy Mayor other than in their civic capacity, i.e. as members of the Council or as private individuals, the Mayor/ Deputy Mayor must deal with such offers in the same way as any other member of the Council.

Therefore, Members must:

a) Declare and/or register any gifts or hospitality which they receive which are attributable to their position as a member of the Council.

b) Be aware of serial givers or repeat offers of gifts and hospitality as these may indicate a pattern of behaviour which may result in a breach of the Code of Conduct for Councillors.

c) Be aware that registration of a gift or hospitality must be made within 28 days of the date you received it.

d) Be aware that an invitation that appears over-generous should be declined; it could be seen as an inducement to affect a Council decision.

e) Be aware that even if all Members, or a large number of them, received the same gift or were invited to the same event, they must each make individual notifications.

f) Be aware that failure to comply with these rules is a breach of the Members' Code of Conduct and could lead to a complaint being reported to the Monitoring Officer or the Standards Committee.

g) Be aware that press and public have the right to inspect your gift and hospitality declaration forms. The Register must be available to the public via the Council's web site. Members should have this in mind when completing declaration forms, as Officers cannot edit your comments.

Should I accept gifts and hospitality?

Registering gifts or hospitality received under the Code of Conduct does not automatically mean it is appropriate or sensible to accept them in the first place. The general test of caution is one of common sense. Would the public question the appropriateness of hospitality or gifts received by the Councillor? If you are concerned the acceptance could be misinterpreted, you should decline it or declare it. You must never solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts you under any obligation. On the other side of the coin, it is appreciated that Councillors often do not wish to cause offence by rejecting a gift or offer of hospitality.

Particular care should be taken in relation to gifts and hospitality offered by current or potential contractors for the Council. In certain cases, the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement, then the matter should be reported.

The Bribery Act 2010, which came into force on 1 July 2011, creates offences of "bribing another person" (active bribery) and of "being bribed" (passive bribery). The offences consist of "promising, offering or giving" or "requesting, agreeing to receive or accepting an advantage (financial or otherwise)" in circumstances involving the improper performance of a relevant function or activity. In the context of the Council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust.

There is a maximum penalty of 10 years imprisonment or an unlimited fine for these offences.

In considering whether to accept gifts or hospitality Members should have regard to the following general principles:

1. Never accept a gift or hospitality as an inducement or reward for anything which you do as a Councillor;

2. Only accept a gift if there is a commensurate benefit to the Council;

3. Never accept a gift or hospitality which might be open to misinterpretation;

4. Never accept a gift or hospitality which puts you under an improper obligation; and

5. Never solicit a gift or hospitality.

Must I register all gifts and hospitality which I receive or am offered?

You must register any gifts or hospitality worth over £25 that you receive in connection with your official duties as a Member.

Where the value of any gift or hospitality is under £25 you may wish to declare receiving it. You should register any offer of gift and/or hospitality over £25 which you have declined, since this protects both your position and that of the Council. Remember, you must 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 their part to show favour from persons seeking to acquire, develop or do business with South Tyneside Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

Only gifts and hospitality offered to you in your official capacity must be registered. Gifts and hospitality offered to you in your private capacity, of whatever value, should not be registered. You do not need register gifts and hospitality which are not related to your role as a Member. However, you should always consider whether any gifts or hospitality could be seen as being connected with your public role as a Member.

What is the value of the gift/ hospitality?

You may have to estimate how much a gift, or some hospitality is worth. The form requires you to give an estimate of the value. It is suggested that you take a common sense approach and consider how much you reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result you estimate that the value is greater than £25, then you should declare receipt.

Where hospitality is concerned, you can disregard catering on-costs and other overheads, e.g. staff and room hire. If the sandwiches or your meal, including drinks

and alcohol, would cost £25 in a comparable establishment providing food of comparable quality, register it.

If you are not certain whether the value is under £25, the safest course is to register it and give an approximate value only.

What about gifts of low value?

There is no requirement to declare gifts of a value of less than £25. However, in order to be transparent, if you receive a series of related gifts in connection with your role as a Member which are all under £25, but together total above £25, then you should register them if they are from the same person. If the small gifts received from different persons are connected in some way, it is good practice and recommended that you register them.

How do I register gifts and hospitality I receive?

You must give the Director of Governance & Corporate Affairs (Monitoring Officer) or Corporate Lead, Legal and Governance written details about the gifts and hospitality you are offered using the standard form for this purpose. The best advice is to get into the habit of registering things as soon as possible, and within 28 days of receipt. The appropriate form is available on the Council's website or from Member Support Services.

Which organisation do I make declarations to?

As mentioned, anything received in your private capacity is not declarable. So far as the Council is concerned, you are acting in your official capacity when you do any of the following:

a) When acting as a representative of the Council;

b) When attending any event or meeting as a representative of the Council;

c) At briefing meetings with officers and members of the public;

d) When corresponding with the authority other than in your private capacity.

How to deal with the issue of when things are received in different capacities or where there are overlapping roles:

Only use the Council's gifts and hospitality registration declaration form for things received in your capacity as a South Tyneside Councillor.

If you receive things in another capacity, i.e., arising from holding another public office, register in accordance with whatever code is in place for that other body. If a particular body does not actually require you to register anything, then you do not need to do anything in respect of the receipt of a gift or hospitality directly attributed to your role within that organisation.

If you cannot decide what capacity you received something in, declare the gift/ hospitality with the body that appears to be the most appropriate to fulfil your duties and obligations. The overriding purpose is public transparency.

What happens if I do not register a gift or hospitality?

Failure to notify the Director of Governance & Corporate Affairs (Monitoring Officer) or the Corporate Lead, Legal and Governance of the receipt of a gift or hospitality is a breach of this protocol and consequently also a breach of the Member's Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer which could result in the matter becoming the subject of an investigation.

Gifts

It is up to individual Members to decide whether or not to declare gifts and hospitality – it is the personal responsibility for each Member.

The Council recognises however that in appropriate circumstances Members may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority;
- modest refreshments received in the ordinary course of duties as a councillor e.g. at formal meetings, training or working meetings or when in contact with constituents;
- Small gifts of low intrinsic value i.e. below £25 which are branded with the name of the company or organisation making the gift (e.g. diaries, calendars etc);
- Modest souvenir gifts with a value below £25 from another public body given on the occasion of a visit by or to that body; and
- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases you may wish to pass the gift to the Civic Office.

Receipt of gifts and hospitality of this type are still subject to the requirements of the protocol regarding the notification to the Corporate Lead, Legal and Governance or Council Monitoring Officer. The appropriateness of acceptance should always be considered beforehand. It should also be noted that the mere fact that a gift or hospitality does not have to be notified under the protocol does not necessarily mean that it is appropriate to accept it.

Will the register be open to the public?

Yes, the register is available to the public in the same way as the register of interests is. It is open for inspection and also available on the Council's website.

Regular updates of declarations will be reported to the Standards Committee as part of the quarterly performance monitoring reports.

Further assistance

It is each Member's own individual responsibility to observe this protocol, but the Director of Governance & Corporate Affairs (Monitoring Officer) and Corporate Lead Legal and Governance will help wherever possible. If you have any questions at all, please contact the Director of Governance & Corporate Affairs (Monitoring Officer) and Corporate Lead Legal and Governance for advice and assistance and for copies of the Registration Form.

Definitions

Gift or hospitality" includes:

(i) the free gift of any goods or services
(ii) (the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public.
(iii) the opportunity to obtain any goods or services which are not available to the general public.
(iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

Reference to the "value" or "cost" of any gift or hospitality are references to the higher of:

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

PART E CODES AND PROTOCOLS

SECTION 15 – PROTOCOL ON COUNCILLOR EXIT PROCEDURE

Purpose

To provide guidelines for the exit process for outgoing councillors following a local election, when a councillor elects to resign during their term or is disqualified from office and sets expectations for ongoing obligations, allowances, expenses, and the return of Council owned equipment and property.

Good governance depends in part on councillors having a good understanding of what they can and can't do. Councillors who are not returned to office, elect to resign mid-term, or are disqualified continue to have ongoing obligations and responsibilities.

This Procedure aims to enhance the understanding of councillors to ensure ongoing good governance practice at South Tyneside Council.

Scope

The procedure applies to all persons who were elected councillors but have ceased to be councillors by virtue of their non-return to office following election, their resignation or their disqualification from office.

Ongoing Obligations

1. Misuse of information gained during a term of office

Misuse of position not only impacts on good governance but can also be unlawful.

An outgoing councillor must not use their former position or information they obtained in their role as a councillor to gain or attempt to gain an advantage for themselves, or anyone else. Similarly, they must not disadvantage or seek to disadvantage the Council or anyone else. The disclosure of confidential information is strictly prohibited, and this obligation survives the outgoing councillor's non-return to office, resignation, or disqualification.

2. Councillor Allowances

Councillors are entitled to receive an allowance while performing their duty as an elected official. Following the resignation, retirement of councillors at a local election or disqualification of a councillor, any allowance due will be calculated and adjusted accordingly to ensure that no overpayment is made. In the event of a resignation, retirement or disqualification taking place after an allowance payment has been paid, the outgoing councillor will be required to reimburse the Council for any overpayment in allowance made.

3. Reimbursement of Expenses

In accordance with Section 7 of the Local Government Act 1972, councillors who are not returned to office following a local election or who do not stand for re-election retire

from office on the fourth day after the ordinary day of election and newly elected councillors shall come into office on the same day.

Reimbursement of councillors' out-of-pocket expenses before and during an election period will apply only to costs that have been incurred in the performance of their duties as a councillor. Expenses that could be perceived as supporting or connected with a candidate's election campaign will not be reimbursed.

Councillors who resign leave office immediately upon receipt of their notice of resignation by the Monitoring Officer and/or the Corporate Lead Legal & Governance. The date on which a disqualified councillor leaves office is dependent upon the method of disqualification. The Monitoring Officer and/or the Corporate Lead Legal & Governance in consultation with the Chief Executive will determine and confirm the date a disqualified councillor has left office in accordance with section 80 of the Local Government Act 1972.

Outgoing councillors should submit any expenses for reimbursement by no later than ten working days after they have left office.

4. Return of Council Property and Equipment

As councillors must continue to perform their elected role during an election period, they will, as a matter of course, receive all necessary information and equipment for them to fulfil that role. Following the declaration of results for a local election, a resignation or disqualification, the outgoing councillor must return all Council owned property as follows:

- Equipment

The following equipment is to be returned in full and good working order:

- mobile telephone
- devices including (but not limited to) laptops, tablets, notebooks or ThinkPads, including any keyboard, mouse, bag, chargers, RAS tokens
- printer and printing equipment including unused paper and toners/printer cartridges
- headphones/ headsets
- all building keys including any locker keys
- security door entry pass and lanyard
- car park pass or permit
- Solo Protect Device or equivalent
- any specialist equipment provided to the councillor which enabled the councillor to fulfil their councillor role, including any aids or equipment provided under equalities legislation (specialist chairs/desks etc)

Before returning equipment, the outgoing councillor must ensure that all personal information including photographs are removed from all devices.

- Stationary and Corporate Apparel

- business cards
- name badges and lanyard
- council branded corporate apparel including letterhead and compliments slips

- Council Documentation and Papers

  - all confidential information whether printed or electronic which includes all information contained within exempt reports, personal data relating to third parties, customers and service users, confidential emails, and correspondence
  - all documents, plans and papers marked confidential and/or sent by secure email
  - any commercially sensitive documentation
  - non-confidential information

  Information that is publicly available and has been published by the Council may be retained by the outgoing councillor or it can be returned to the Council for recycling.

Timescale for return of Council Property and Equipment

Outgoing councillor's must return council property and equipment to Member Support Services by no later than 10 working days after their non-return to office, resignation, or disqualification. Where bulkier items are to be returned, the outgoing councillor must make arrangements with Member Support Services by no later than 10 working days for the collection/delivery of those items.

Where an outgoing councillor has arranged for a separate telephone line or broadband to be installed in their home for the purpose of their councillor duties, it is the responsibility of the outgoing councillor to cancel that service immediately once they are not returned to office, resign, or are disqualified. The Council will not reimburse telephone line rental or broadband costs once a councillor has left office.
In extreme circumstances, failure to return council property and equipment may lead to legal action being brought against an outgoing councillor or referral to the police.

Procedures to be followed by Member Support Services

Member Services will complete the ICT Equipment Return forms on behalf of the outgoing councillor and these must be signed by the outgoing councillor when returning their equipment.
Member Support Services will notify in writing:

- ICT & Digital Services to deactivate the outgoing councillors' email account and user ID's to prevent system access
- notify Facilities Management to deactivate the outgoing councillors' door entry security pass to prevent physical access to Council buildings

- notify the Monitoring Officer and the Civic Officer and Events Manager to cancel the outgoing councillors' allowances and expenses accounts with Finance

Member Support Services will notify the Monitoring Officer within 2 working days that an outgoing councillor has not returned their council equipment and property.
Where it is not feasible for the outgoing Councillor to comply with these exit procedures, in consultation with the Monitoring Officer, a member of staff may be assigned responsibility to collect items from the outgoing Councillor or their family or arrangements could be made for the items to be returned to the Council through a recorded courier service.

PART E CODES AND PROTOCOLS

SECTION 16 - PROTOCOL BETWEEN THE MONITORING OFFICER OF SOUTH TYNESIDE COUNCIL AND NORTHUMBRIA POLICE

Purpose

To agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a member has a disclosable pecuniary interest and has not first sought a dispensation.

To agree a protocol for the reporting of potential offences arising from the conduct and behaviour of others towards an Elected Member.

References to the Monitoring Officer also include the Deputy Monitoring Officer where the Monitoring Officer is absent or unable to act. In these circumstances the Deputy Monitoring Officer has full power to undertake the Monitoring Officer role.

Introduction – failure to declare disclosable pecuniary interests

Section 34 of The Localism Act 2011 created a criminal offence where an Elected Member or co-opted Member fails, without reasonable excuse, to comply with the requirements of the Act to register or declare disclosable pecuniary interests (DPIs) or takes part in council business at meetings or when acting alone when prevented from doing so. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to 5 years.

The Code of Conduct

South Tyneside Council's Code of Conduct incorporates the legislation and provides information about what amounts to a disclosable pecuniary interest, the ability of an elected member to seek a dispensation to participate, vote and remain in a meeting where a member has a disclosable pecuniary interest. This is set out at Paragraph 13.1 of Section 2 Part E of the Council's Constitution and within Appendix B of Section 2 Part E of the Council's Constitution.

It is a criminal offence for an Elected Member to:

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election,

- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Register,

- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that the Elected Member has disclosed at a meeting,

- Participate in any discussion or vote on a matter in which the Elected Member has a disclosable pecuniary interest without a dispensation,

- As a Cabinet member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer of the disclosable pecuniary interest within 28 days of the interest,

- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The Process

If the Monitoring Officer becomes aware, either via a complaint made under the Council's existing complaints procedures, or via any other means he/she will first gather together all relevant documentation for consideration. Having ascertained that no dispensations have been granted or that the scope of an existing dispensation if one has been granted is not wide enough to cover the meeting/issue/decision being taken, if he/she is of the opinion that there is evidence of such a breach of the Code he/she will then consult the Independent Person (IP) and the Independent Chair of Standards Committee confidentially for their opinions.

Information about what amounts to a disclosable pecuniary interest and the ability of an elected member to seek a dispensation is set out at Paragraph 13.1 of Section 2 Part E of the Council's Constitution and within Appendix B of Section 2 Part E of the Council's Constitution

No contact will be made with the subject member against whom the complaint is made as this may prejudice any investigation the Police may wish to undertake or subsequent prosecution. In addition, the Monitoring Officer, Independent Chair of Standards Committee and the IP will be unable to assist or advise the subject member against whom the complaint is made.

If the Monitoring Officer concludes that there is evidence of a breach, he/she must report the matter to the police and send all relevant documentation to them. The Monitoring Officer does not have any discretion in this instance, and it will be for the Police to conduct whatever investigation they consider appropriate.

The Monitoring Officer may initially contact the Police Liaison Officer by telephone to inform him/her of the situation before sending the documentation. The Police nominated point of contact is currently Sgt 719 Katrina Moore.

Similarly, if the Police receive a complaint from a member of the public, they will inform the Monitoring Officer of the receipt of that complaint. The Monitoring Officer, currently Nicola Robason, Director Governance and Corporate Affairs, should be contacted on 0191 424 7186 or nicola.robason@southtyneside.gov.uk.
The Monitoring Officer must make himself/herself available for interview as a witness in any subsequent court processes should this be required by the Police or Crown Prosecution Service (CPS).

The Police Liaison Officer will contact the Monitoring Officer with an update on the progress of their investigation when appropriate to do so.
The Monitoring Officer may, if appropriate, report the matter and any progress in the investigation confidentially to the Standards Committee, unless the matter concerns a member of that Committee when only the Independent Chair will be informed. If the matters concern the Independent Chair only the Vice Chair will be informed.
Once the police have completed their investigation and a decision has been made by the CPS the process will be as follows;

- If a prosecution proceeds the Monitoring Officer will take no further action apart from updating the Standards Committee confidentially on its progress,

- If the CPS decides not to proceed with a prosecution the Monitoring Officer will then process the complaint through the Council's Member Code of Conduct arrangements for dealing with such complaints. It is accepted that the CPS require a higher standard of proof (beyond reasonable doubt) for criminal prosecution whereas a Standards Committee Hearing need only consider the balance of probabilities and therefore whilst there may not be a criminal offence that can be prosecuted there still may be sufficient evidence that a breach of the Code of Conduct has occurred. The Monitoring Officer will take into consideration the fact that a police investigation has taken place and the outcome of it before determining whether it is appropriate, proportionate and in the interests of good governance for a further investigation under the Code of Conduct should take place, or whether some other action would be more appropriate. In the event that the Council pursues the matter further in terms of a Code of Conduct breach, it will inform the Police of their decision.

Introduction – conduct and behaviour towards Elected Members

Social media is a powerful tool for Elected Members, and it can help engagement with communities, raise awareness of community issues, events or initiatives, and to seek residents' views and receive feedback. We are receiving an increasing number of reports from Elected Members that they feel that they are being subjected to abuse, threats and intimidation from either members of the public or fellow Elected Members. Social media also provides an additional and often anonymous route for individuals and/or groups to engage in such activity. This may include discriminatory, psychological, and verbal actions such as perceived threats of harm, distribution of misinformation, character assassination, 'trolling', inappropriate emails and communications on social media and other unpleasant and threatening behaviours.

Whilst debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats could undermine democratic decision making by generating fear in those who represent it and there is no place for this in South Tyneside.

General Advice

The most important determining factor in deciding how to respond to threats of intimidation or personal attack is the impact it is having on the Elected Member.

Sometimes, it is not one single action but a series of linked events that determines the perception of a threat and causes damage to one's sense of security. There will likely be variations from person to person in what constitutes intimidation based on contextual and demographic factors such as age, gender or ethnicity and previous experiences. However, regardless of what others may think, if it is affecting the Elected Member and their sense of security, then that is sufficient enough for the Elected Member to take action.

Key points:

- Councillors are encouraged to keep a record of any intimidatory communication or behaviour.

- Contact with unknown or anonymous individuals should be undertaken with care.

- Councillors are encouraged to speak up and speak out against harassment and intimidation of others and address any inappropriate and disrespectful behaviour, where they feel safe to do so, with the aim of discouraging others from accepting such behaviours.

Below are a number of suggested actions that Elected Members should undertake if they believe they are being subjected to intimidation or harassment:

- Make sure that their immediate safety is not at risk. Elected Members must make sure they are safe, by, for example, ensuring that you are not alone and / or contacting police as emergencies dictate. Important advice and information are made available to Elected Members separately including guidance for handling intimidation and Health and Wellbeing guidance.

- If possible, record or diarise the encounter or communication. In the case of an email or letter Elected Members are advised to copy or save it. A telephone call or face-to-face discussion and social media incident should be written in a diary as soon as possible after the event, recorded, screenshot or saved. Elected Members could also take photos of a computer screen if needs be. A record will be important if future action is going to be taken, either through Standards Committee or the Police. A record of the full conversation will be required in order to get the full context of the discussion. It is also important that incidents relating to the same individual or individuals should be recorded as such evidence could be critical if the matter gives rise to a criminal prosecution.

- Raise the incident with a view to discussing it or obtaining support from the Council via the Monitoring Officer. Elected Members are also advised to raise with their political group nominated person (if applicable).

- If an Elected Member believes a crime has occurred, it is advisable that they formally report it to the Police. The Elected Member must do this themselves, but the Council can help facilitate this. Information as to how to do this is provided below. The Elected Member may also wish to consider reporting any

inaccurate, abusive or defamatory online comments to the platform provider and seek deletion or raise concern that the user is not complying with the relevant providers standards and to record any responses from the platform provider.

- Formally report the matter that you have reported to the police, to the Council, via the Monitoring Officer, so that a record can be maintained within the Council and support provided where necessary.

Depending upon the circumstances, an option may also include a complaint under the Member's Code of Conduct if it is an Elected Member involved in making threats of harm, distributing misinformation or a character assassination and any complaint should be made through the Council's Member Code of Conduct arrangements.

It is not appropriate for the Monitoring Officer or Deputy Monitoring Officers to initiate complaints about the behaviour of Elected Members under the Code of Conduct. As these officers do not have the full details of the behaviour and cannot accurately portray the impact which the offending behaviour has on a particular Elected Member or member of the public. That can only be truly reflected by the person affected. Council Officers do not and cannot know about the behaviour of every Elected Member or the impact which they may be having on others, they must at all times maintain their roles as being the impartial recipients of complaints, thereby enabling them to assess and if necessary, investigate them.

Reporting matters to the Police

Elected Members are advised to call 999 if there is any danger or risk to life or a crime is in progress. For non-emergencies Elected Members should contact 101. If an Elected Member ever fears violence or is a victim of a violent attack, they should call 999 immediately. All calls into the police either by 999 or 101 are appropriately risk assessed by the call taker and the most appropriate response provided to deal with the incident.

The crime element of any intimidation or harassment claim is sometimes complex and there is a high standard to pass in terms of the evidential threshold.
The Council has a number of dedicated Neighbourhood Police Officer operating in the Borough who are there to support Councillors in respect of local neighbourhood issues, whether about their estates, ward or any community issues. The Council also has a dedicated Community Engagement Team that works across Sunderland and South Tyneside.

Elected Members are asked to note their two Neighbourhood Inspectors covering South Tyneside are:

Denise Easdon - Denise.Easdon.7018@northumbria.pnn.police.uk mobile 07885 264209

Paul Whittle - Paul.Whittle.7339@northumbria.pnn.police.uk mobile 07736194464

And the Community Engagement Sergeant:

David Stobbs 3434 – David.Stobbs.3434@northumbria.pnn.police.uk mobile 07885263864

Elected Members are reminded that they should not use the Neighbourhood Police Officers or any other Police contacts that they may have as a result of their role as a Councillor, to report personal issues relating to their safety as those individual officers may not be on duty and may not be able to provide an immediate response should one be warranted. To ensure an Elected Member receives the right service from Police colleagues, if an incident were to occur, Councillors must use the 999 or 101 services depending on the circumstances and relay the details to the call handler who will risk assess the incident and provide an appropriate response for the circumstances outlined at the time.

There is also the online reporting tool which can be utilised by Elected Members to report incidents.

https://services.northumbria.police.uk/online-services/report-an-incident/

This will allow Elected Members to report an incident in their own time. These incidents are also risk assessed and the most appropriate response to the circumstances outlined within the report will be provided. As previously outlined all calls to the Police will be subject to a threat, harm and risk assessment that will dictate how quickly the matters is dealt with and the most appropriate route of action. The Police always consider safeguarding on an individual basis and any enhanced measures that may be necessary will be put in place.
It is not appropriate for any Council Officer to initiate complaints to the Police on behalf of Elected Members. This can only be done by the person affected, however Council Officers will provide support and maintain their role as being a facilitator with Police colleagues.

The Monitoring Officer and Deputy Monitoring Officers can at any time be used as a sounding board for Elected Members, in confidence. Whilst these Officers may not always be able to provide an immediate solution to any alleged abuse or intimidation, they will provide Elected Members with support and advice, including any practical advice on personal safety liaising with Health and Safety colleagues or how to carry out a risk assessment to address any risks or threats an Elected Member may have when attending Council meetings or Ward Surgeries, for example.

The Member Code of Conduct is in place and should help councillors model and balance their behaviour, understand the expectations of their role, and to indicate the type of conduct that could lead to action being taken against them to continue to aspire to high standards of leadership and performance

PART F

Members' Allowances Scheme

1. Introduction

1.1 South Tyneside Council ("the Council), in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, have made a Scheme for the payment of allowances ("Members' Allowances Scheme") as follows:

1.2 This Scheme shall have effect from 17 May 2022 and shall continue in force thereafter until revoked or amended.

1.3 The previous Members' Allowances Scheme which took effect from 18 May 2021 is revoked with effect from 17 May 2022.

1.4 The Director of Business and Resources is authorised, on receipt of verification of a claim from a Councillor, to pay the following allowances in accordance with the payment arrangements described in this Scheme.

1.5 In this Scheme:

"the Authority" and "the Council" means the South Tyneside Metropolitan Borough Council.

"Co-optee" means a person who is not a Councillor but who is a co-opted member of a Committee of the Authority.

"Councillor", "Member" or "Elected Member" means an Elected Member of the Authority.

"the Regulations" means The Local Authorities (Members' Allowances) (England) Regulations 2003 as amended by the Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003.

"Year" means any period of 12 months ending on 31 March in any year.

1.6 Councillors should note that details of the payment of all their allowances (including expenses) must be made available for public inspection.

2. Basic Allowance

2.1 For each Year a basic allowance ("Basic Allowance") of £8,167 per annum shall be paid to each Councillor. The Basic Allowance is intended to recognise approved duties and such offer inevitable calls on their time, including Council meetings, meetings with officers or constituents, personal research, informal meetings, ward surgeries and all associated preparation and planning work.

2.2 The Basic Allowance will be paid by equal monthly amounts via payroll and will be updated annually on the basis of any headline percentage increase agreed by the National Joint Council (NJC) for Local Government as the pay award for staff on the national pay scale (Green Book).

2.3 Pro-rata payments of the Basic Allowance (calculated by reference to days) shall be payable to eligible Councillors where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a Year.

3. Special Responsibility Allowance

3.1 For each Year a special responsibility allowance ("Special Responsibility Allowance") shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are specified below.

Special Responsibility Allowances

Leader of the Council		£ 28,121
Deputy Leader of the Council		£ 17,894
Cabinet Member (x7)		£ 12,241
Leader of main opposition group		£ 2,556
Police and Crime Panel Member (x1)		£ 5,112
JTC Tyne and Wear Sub Committee Representative		£ 3,290
Mayor		£9,635
Deputy Mayor		£4,738
	Chair	**Vice-Chair**
Scrutiny Committee (x3)	£ 10,225	£ 5,112
Pensions Committee	£ 10,225	£ 5,112
Planning Committee	£ 7,668	£ 3,834
Licensing / Regulatory Committee	£ 7,668	£ 3,834
Community Area Forums (x5)	£ 6,053	-
Human Resources	£ 5,112	£ 2,556
Audit Committee	£ 5,112	£ 2,556
Contracts Performance Panel	£ 5,112	£ 2,556
Housing Performance Panel	£ 5,112	£ 2,556
Education and Skills Panel	£ 5,112	£ 2,556
Safeguarding Children and Adults Panel	£ 5,112	£ 2,556
Standards Committee (co-opted Independent Chair)	£ 5,112	£ 2,556

Independent membership on Audit Committee and Standards Committee including the Council's Independent Person will each receive the sum of £816.70 per annum.

3.2 The amount of each Special Responsibility Allowance shall be the amount specified against that special responsibility above.

3.3 The Special Responsibility Allowance will be paid by equal monthly amounts via payroll and will be updated annually on the basis of any headline percentage increase agreed by the National Joint Council (NJC) for Local Government as the pay award for staff on the national pay scale (Green Book).

3.4 Pro-rata payments (calculated by reference to days) of the Special Responsibility Allowance shall be payable to eligible Councillors where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a Year.

3.5 No Councillor should receive more than one Special Responsibility Allowance. Any Councillor holding two or more posts eligible for a Special Responsibility Allowance should be paid only the highest of the Special Responsibility Allowance's payable. Where a Councillor is also a Member of another authority, that Councillor should not receive allowances from more than one authority in respect of the same duties.

3.5 Allowances will be payable during periods of maternity or paternity leave.

4. Allowances for Outside Bodies

4.1 Allowances are payable for the following:

(a) Outside Bodies with Allowance Schemes from whom Councillors must claim directly, as show in Schedule 1. Not all Outside Bodies have Allowances Schemes.

(b) Outside Bodies which are recharged by the Authority in respect of Allowances paid to Councillors for meetings convened by that Outside Body, as shown in Schedule 2.

4.2 No allowance shall be payable if such payment would be contrary to a provision made by or under any enactment.

5. Co-optees Allowance

5.1 For each Year an allowance of £5,112.00 will be paid to the Independent Chair of Standards Committee as the Authorities only co-optee Member. In addition, all co-opted members will be eligible to recover travel and subsistence costs in accordance with this Members' Allowances Scheme.

5.2 Independent membership on Audit Committee and Standards Committee including the Council's Independent Person will each receive the sum of £816.70 per annum and will continue to be set at all times as 10% of the Basic Allowance.

5.3 In addition, all independent members will be eligible to recover travel and subsistence costs in accordance with this Member's Allowances Scheme.

6. Dependents' Carers' Allowance

6.1 An allowance ("the Dependents' Carers' Allowance") will be paid to each Councillor who needs to incur the expenses of arranging for the care of their children or dependents whilst undertaking approved duties specified in Schedule 3.

6.2 The Dependents' Carers' Allowance will be payable in respect of actual expenditure not exceeding a maximum of £8.30 per hour per dependent.

6.3 Payments can be made for the care of dependents including children, elderly persons or those with some form of disability.

6.4 Councillors may claim for care provided by relatives and others provided they do not live in the family home.

7. Travelling and Subsistence Allowance

Travel

7.1 Councillors and Co-optees are entitled to travelling and subsistence expenses necessarily incurred for the purpose of enabling him or her to perform any approved duties in connection with or relating to the duties specified in Schedule 3.

7.2 Travelling allowances may be claimed in respect of each and every occasion on which Councillors and Co-optees carry out a duty as described in Schedule 3.

7.3 The normal rates of travelling allowances are:

(a) **Public Transport including bus/metro** – ordinary fare or any available cheaper fare. Please note that where a Councillor is claiming bus fares on a regular basis it may be cheaper to purchase a bus pass than meet individual fares. In this case the Authority would reimburse the cost of the pass. Any Councillor in any doubt on this matter should seek advice from the Director of Business and Resources.

(b) **Rail** - Tickets should be booked via Members Support Services. Only in emergencies should rail tickets be purchased direct by Councillors. Please note: Councillors will be reimbursed the cost of such a train ticket subject to a receipt being provided. However, unless there are emergency circumstances, all tickets should be booked for Councillors by the Council via Members Support Services. All Members will normally travel standard, but the Council will seek to secure cost-effective travel arrangements at all times. First-Class travel is not an automatic right and will never be appropriate for a short journey. There must be real justification as to why a Councillor would ever travel First Class.

(c) **Private car –** specific details of each journey made must be recorded on the expense claim form. Where Councillors travel direct from their place of work to a meeting the mileage which can be claimed is the difference between work-meeting place-home and work-home.
Where a passenger allowance is claimed the names of any passengers carried must be shown on the expenses claim form.
Expenditure on tolls, ferries or parking fees may also be claimed, subject to receipts or tickets being submitted but Councillors will not be reimbursed for the costs of a permit to park at South Shields Town Hall. A Councillor may use their own motor car or one belonging to a

member of her/his family, or otherwise provided for their use and subject to the Councillor having the appropriate insurance, the rate for travel, which is the same as for officers using their own vehicles on a casual basis as follows:

Mileage at a rate of Her Majesty's Revenues and Customs Mileage Rate of £0.45 per mile for the first 10,000 miles and £0.25 per miles over 10,000 miles. The rate shall be increased in accordance with any increase of Her Majesty's Revenues and Customs maximum rates of allowance.

A supplement for official passengers at a rate of £0.05 per mile per passenger, not exceeding 4 passengers, to who a travelling allowance would otherwise be payable.

The distance claimed for mileage should be the shortest most reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.

All Elected Members who require parking access at South Shields Town Hall courtyard must pay an annual fee of £25 for the necessary parking permit. Councillors will not be reimbursed for the costs of a permit to park at South Shields Town Hall. Parking Permits should be arranged via Members Support Services.

Note 1 – the mileage rate shall be the same whatever the type of fuel used (including petrol, diesel, electric, hybrid and LPG vehicles).

Note 2 – Councillors should only use cars rather than rail for longer journeys where it is reasonable or more efficient to do so.

(d) **Motorcycles and bicycles** – if used the rate payable is Her Majesty's Revenues and Customs Mileage Rate. The rates shall be increased in accordance with any increase of Her Majesty's Revenues and Customs maximum rates of allowance.

- Motorcycle £0.24 per mile
- Bicycle £0.20 per mile

(e) **Taxis** – the cost of taxi fares where public transport is not readily available or appropriate or in cases of urgency. Councillors will be reimbursed subject to a receipt being provided for the actual fare and any reasonable gratuity. Taxis should be booked wherever possible via Members Support Services.

(f) **Hired Motor Vehicle** – the rate for travel by a hired motor vehicle other than a taxi shall not exceed the rate which would have been applicable had the vehicle belonged to the Councillor who hired it.

(g) **Air travel** – that the Chief Executive or Director of Business and Resources in consultation with the Leader of the Council approve air travel for Councillors attending appropriate courses or visits, where it is advantageous to the Authority in time and compared to alternative modes of transport and any additional costs are reasonable. Unless there are exceptional circumstances the Authority will book the flight direct selecting the most economic option available and utilising the established procurement arrangements in place. Where exceptional circumstances exist, these must be approved in advance by the Director of Business Resources and reasonable costs will be reimbursed subject to submission of receipts.

Overnight Accommodation

(h) Overnight Accommodation – the allowance will not be claimable as an allowance as such, rather reasonable costs of an overnight stay (including breakfast) will be met by the Council for business class accommodation within and outside of London. In all circumstances the Authority, via Member Support Services, will book the accommodation direct selecting the most economic option available and utilising the established procurement arrangements in place.
The above approach is proposed for dealing with overnight stays (including breakfast). The subsistence rates for other meals below, where necessary, are still considered appropriate and would be in addition.

Subsistence

(i) A Councillor is entitled to a subsistence allowance where expenditure is necessarily incurred on an approved duty. In the case of absence from the usual place of residence for a continuous period which exceeds 4 hours but does not involve an overnight absence, subsistence is payable as set out below:

- Breakfast Allowance — Not exceeding £15
- Lunch Allowance — Not exceeding £15
- Tea Allowance — Not exceeding £15
- Evening Meal Allowance — Not exceeding £30

The limitations on reimbursements are:

i) for breakfast, an absence of more than 4 hours, or where the Authority permits, a lesser period, before 11am:
ii) for lunch, an absence of more than 4 hours, or where the Authority permits, a lesser period, including the period between 12 noon and 2pm.
iii) for tea, an absence of more than 4 hours, or where the Authority permits, a lesser period, including the period between 3pm and 6pm.
iv) for dinner, an absence of more than 4 hours, or where the Authority permits, a lesser period, ending after 6pm.

A contribution in excess of the above amounts can be made in exceptional extenuating circumstances. Such circumstances and Authority permission must be approved or provided in advance by the Director of Business and Resources.

Hospitality

(j) The Authority recognises that the Leader of the Council, Cabinet Members and the Mayor and Deputy Mayor shall maintain effective relationships with key Authority partners and lead the Authority's work in relation to regional, national and international matters. Therefore, it is acceptable that the cost of reasonable hospitality offered to official guests of the Authority by the Leader of the Council, Cabinet Members or the Mayor/Deputy Mayor, acting on behalf of the Authority, is reimbursed, provided always that receipts are provided by the Elected Member claiming reimbursement.

(k) A hospitality budget for each financial year will be agreed for the Authority, which may be accessed for Mayoral and civic hospitality and other hospitality spend by the Leader of the Council and Cabinet Members. A policy and procedure will be created to ensure adequate boundaries are in place and an annual report on hospitality spend will be presented to Full Council annually.

Conference and Seminars

(l) If a Councillor wishes to attend a conference and / or seminar, a Conference Approval form is completed and submitted to the Leader or Deputy Leader of the Council for sign off. Staff within Members Support Services will complete the form on the Councillors behalf. Once approval has been granted, travel and accommodation are booked by Members Support Services in accordance with Members Allowances guidelines.

(m) Meals on trains – when main meals (i.e., a full breakfast, lunch or dinner) are taken on trains during a period for which there is entitlement to subsistence, the reasonable cost of the meal (including VAT), may be reimbursed in full where not included in the cost of the train ticket.

(n) Residential courses – when a Councillor attends a residential course or conference and the Council has paid an inclusive fee, the normal subsistence allowance shall be payable for the period from leaving home to arriving at the Course, and from leaving the Course to arriving home, if and where appropriate.

(o) A Councillor may claim the cost of reasonable out of pocket expenses when they are required to travel outside of the Borough of South Tyneside. Out of pocket expenses are reimbursed subject to submissions of receipts and are taxable. Examples of expenses that will be reimbursed include parking fees (but not fines).

Out of Pocket expenses are only payable where Councillors are attending any conference and / or seminar or carrying out a duty as described in Schedule 3.

(p) Councillors can claim for additional travel and subsistence or out of pocket expenses incurred in connection with conference and / or seminars or when carrying out a duty as described in Schedule 3. This can be by way of a cash advance (Part 11) or paid directly on to the Payroll subject at all times to submission of receipts.

8. Claims and Payments

8.1 Payments of Basic and Special Responsibility Allowances shall be made in instalments of one twelfth of the amount specified in this Scheme (i.e., equal monthly instalments in arrears) on the last working day of each month directly into a Councillor's bank account. All payments of Basic Allowance and where appropriate Special Responsibility Allowance will be made automatically, and no action is required by the Councillor to claim the Basic Allowance or Special Responsibility Allowance.

8.2 A claim for the following allowances must be made by the person to whom they are payable by submitted the appropriate Claim Form to the Civic Support and Events Officer within a reasonable period from the date on which an entitlement to the relevant allowances arises:

(i) Dependents Carers' allowance
(ii) Travelling, Accommodation or Subsistence allowance
(iii) Co-optees' allowance
(iv) Hospitality, Conference and Seminar allowance
(v) Telephone and Broadband Allowances

8.3 Claim Forms can be obtained from Members Support Services and on completion should be returned to the Civic Support and Events Officer or Members Support Services for payment. All claims should be made on a timely basis ideally within a quarter year of these claims being incurred and must be claimed within the relevant tax year. No payments will be made on claims submitted after the end of the financial year to which the claim relates.

8.4 Councillors are reminded that receipts and tickets must be obtained (including receipts for taxis, tickets on public transport, parking tickets) and must be submitted with their Claim Forms to assist with the recovery of VAT. In exceptional circumstances, where it is not possible to obtain a receipt, details of a journey etc. should be provided by the Councillor on the Claim Form.

9. Avoidance of duplication of Allowances

9.1 A Councillor performing approved duties as a Member of more than one body or becoming entitled to attendance or comparable payments under any other Act must ensure that only one claim is made for that duty.

10. Telephone and Broadband Allowances

10.1 Councillors may require a landline telephone available in their private residence. Provided their telephone charges are not already being met by any firm, company or other organisation by whom the Councillor is employed or otherwise connected, the Authority will pay for, as follows

a) Installation charges, where necessary **exact cost of installation is refunded**
b) Basic monthly rental **£8.89**
c) Cost and monthly rental of one extension point **£19.63**
d) A monthly allowance towards the cost of calls **£14.99**

10.2 HMRC have indicated that they consider a personal allowance is derived from the provision of a telephone and from the lump sum allowance for calls. All telephone allowances are therefore subject to income tax and national insurance and are reimbursed through Payroll. Members should submit their first paid telephone account to Members Support Services in order to claim reimbursement of the appropriate amount. The Authority is required to keep the account for VAT purposes, but a copy will be returned to Councillors.

10.3 Councillors may be able to claim tax relief for business calls. Her Majesty's Revenues and Customs may require Councillors to provide evidence of their claim. Councillors should therefore keep a record of all their business calls.

10.4 The Authority will provide a telephone answering machine to those Councillors who require such a facility.

10.5 Where a Councillor resides at same address as another Councillor, only one installation rental and/or extension point is payable. However, each Councillor may claim an allowance towards the cost of calls.

10.6 Councillors are required to submit their paid telephone bill, in order that a copy can be taken by Member Support Services to enable the VAT element to be recovered. A copy of the original account will be returned to Councillors.

10.7 Payment of telephone allowances will be made monthly. The allowance is taxable and therefore the payment will be included with the payment of other allowances each month. Further information for Member on Taxation can be found at Schedule 4.

10.8 Where a Councillor is provided with a device that can be connected to Broadband, the Authority will also provide a £14.99 monthly allowance towards the cost of Broadband via the Payroll system.

10.9 All Councillor will be provided with a Council mobile telephone and the Authority will pay all reasonable costs incurred for that mobile relating to business calls and calls which fall within the scope of the Council mobile

contract. Councillors are required to reimburse the Authority for any private use where a cost has been incurred which falls outside of the scope of the Council mobile telephone contract.

10.10 If a Councillor requires payment in relation to Telephone and/or Broadband Allowance, they must notify and submit a request to Members Support Services as these are not automatic allowances. This request can be made at any time.

11. Cash Advance

11.1 In exceptional circumstances or to avoid personal hardship Members can obtain a cash advance to cover incidental travel and subsistence expenses incurred when travelling on approved Council duties (and which cannot be booked in advance by the Authority). This is subject to the following guidelines: -

11.2 A cash advance will only be available for a sum of up to £100 and will only be available for Members travelling for the purposes of approved and authorised Council duties.

11.3 A cash advance must be authorised by the Director of Business and Resources prior to processing by Member Support Services.

11.4 At least 24 hours advance notice must be given to allow completion of the necessary processes.

11.5 Upon return from the approved duty, Members must produce receipts to support the expenditure of the cash advance and must return any surplus or unused element of the cash advance immediately upon return. Inability to produce receipts for a substantial proportion of the expenditure claimed will result in no further cash advances being awarded to that Member until such time as satisfactory supporting receipts are received or the situation is satisfactorily resolved by the Director of Business and Resources.

12 Election to forgo allowances

12.1 Any Councillor or Co-optee may, by one month notice in writing given to the Council's Corporate Lead, Legal and Governance or designated Monitoring Officer, elect to forgo all or part of any allowance entitlement under this Scheme.

12.2 Where a Councillor is fully or partially suspended from any duties their Basic Allowance will be fully or partially withheld by the Authority as appropriate.

12.3 Where a Councillor is fully or partially suspended from any duties or responsibilities which attract a Special Responsibility Allowance will be fully or partially withheld as appropriate.

12.4 Where a Co-optee is fully or partially suspended from any duties or responsibilities their Co-optees allowance will be withheld as appropriate.

12.5 Any decision made by a Member to forgo any allowance entitlement cannot be undone within one month of making such a decision and no reimbursement will be made after the end of the financial year in which the decision was made. There can be no request by Members to pay scarified allowances from previous years.

12.6 Any Councillor or Co-optee may elect to pay all or part of any allowance entitlement under this Scheme to a charitable or Voluntary organisation but must make those arrangements directly with the organisation. The Council will not facilitate or create these arrangements.

13 Review of Allowances

13.1 The Authority shall, pursuant to the Local Authorities (Members Allowances) (England) Regulations 2003, establish and maintain an Independent Remuneration Panel ("the Panel) to consider and advise on the categories and levels of Members Allowances paid by the Authority.

13.2 The Panel shall be convened at such times as may be deemed appropriate and in accordance with the Regulations to comment on and review any Allowance Scheme in force by the Authority. Any such Scheme must in any event be reviewed every four years from adoption or amendment and the Panel will carry out an annual 'health check' of the Member's Allowances Scheme during intervening years.

13.3 The panel shall produce a report which shall set out the Panel's recommendations in respect of the payment of such Allowances as it thinks fit. That report shall be made available for inspection by members of the public and notice of the proposed recommendations published in a local newspaper circulating the area.

13.4 The report of the Panel will be considered by Full Council as soon as is reasonably practicable. Following consideration of the Panel's report Full Council shall set the level of the Allowances paid by the Authority until such time as they are again submitted for review by the Independent Remuneration Panel.

14 Parental Leave Entitlement

14.1 Following work done by the Local Government Association's Labour Women's Taskforce on 9 January 2019, it was agreed that insofar as possible Councillors are able to take appropriate parental leave at the time of birth or adoption, that both parents are able to take leave and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in

receipt of a Special Responsibility Allowance during any period of parental leave taken.

14.2 Councillors giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend for up to 52 weeks by agreement as required.

14.3 Councillors shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

14.4 Where both parents are Councillors, leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

14.5 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

14.6 Members entitled to a Special Responsibility Allowance shall, for the first six months, continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave, with a review after the first six months and a possible extension for a further six month period.

14.7 Where a replacement is appointed to cover the period of absence that person shall receive a Special Responsibility Allowance on a pro rata basis for the period of the temporary appointment. Should a Councillor appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowance shall apply.

14.8 Any Councillor who takes maternity, paternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six-month period unless the Council Meeting agreed to an extended leave of absence prior to the expiration of that six-month period.

14.9 Unless the Member taking leave is removed from their post at an Annual Meeting of the Council whilst on leave, or unless the Political Party to which they belong loses control of the Council during their leave period (if applicable), they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they had before the leave began.

14.10 If a Councillor decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

14.11 If an election is held during the Member's maternity, paternity, shared parental or adoption leave, and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and Special Responsibility Allowance (if appropriate) will cease from the fourth day after the election date when they would technically leave office.

Schedule 1

Outside Bodies with Allowance Schemes from which Members must claim directly making their own arrangements.

1. South Tyneside Homes (STH) - Chair £10,225 and Vice Chair (Determined by STH Board) £7,668

2. Housing Ventures Trust (Vice Chair Position Only) - £7,371

3. Border to Coast Pensions Partnership Limited – Shareholder Director - £15,000 (remunerated by the Company in full)

4. North East Regional Employers' Organisation (NERO) – attendance allowance of £21 per meeting.

Schedule 2

Outside Bodies which are Recharged by the Council in respect of Allowances Paid to members for meetings convened by the Outside Body.

1. Tyne and Wear Fire and Rescue Authority - Basic Allowance £2,500

2. APSE – No payment for being on the committee. Annual Fee of £1,300 plus expenses payable to Member chairing a National Advisory Group (position appointed by APSE's AGM)

Schedule 3
Approved Duty for Dependents' Carers' Allowance and Travel and Subsistence Allowance

Approved duty for the purpose of the payment of Dependents' Carers' allowance and travel subsistence shall be:

1. The attendance at a meeting of the Authority or of any committee or subcommittee of the Authority, or of any other body to which the Authority makes appointments or nominations, or of any committee or subcommittee of such a body.
2. The attendance at any other meeting, the holding of which is authorised by the Authority, or a committee or subcommittee of the Authority, or a joint committee of the Authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a subcommittee of such joint committee.

Note 1 *In relation to category 2 meetings, it must be a meeting to which members of at least two political groups have been invited.*

3. The attendance at a meeting of any association of authorities of which the Authority is a member.
4. The attendance at a meeting of the executive or a meeting of any of its committees, where the Authority is operating executives' arrangements.
5. The performance of any duty in pursuance of any standing order made under Section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened.
6. The performance of any duty in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises.
7. The performance of any duty in connection with arrangements made by the Authority for the attendance of pupils at any school approved for the purposes of Section 342 of the Education Act 1996 (approval of non-maintained Special Schools).
8. The carrying out of any other duty approved by the Authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the Authority or of any of its committees or subcommittees.

Note 2 In relation to category 8, the Council has approved the attendance at all meetings which are for the purpose of, or in connection with, the discharge of the Authority's functions or of any of its committees or subcommittees (other than political meetings) including:

- *The attendance at a meeting of a Working group or Panel of the Authority*
- *The attendance at site visits and inspections*
- *The attendance at ward surgeries*
- *The attendance at meetings with tenants or community groups*
- *The attendance at meetings with officers*

9. Withholding Allowances – where a Councillor is fully or partially suspended from any duties or responsibilities which attract Special responsibility Allowance, those allowances will be withheld by the Authority.
10. Review of Allowances – the Authority shall, pursuant to the Local Authorities (Members Allowances) (England) regulations 2003, establish and maintain an Independent Remuneration Panel to consider and advise on the categories and levels of Members Allowances paid by Authority.

Schedule 4 - Taxation

The Tax Charge

For tax purposes, Members are treated in the same way as any other employee or person who holds an office.

- “Emoluments” (payments which more than cover expenses are taxable and are deducted as part of Income Tax.
- Payments which reimburse expenses actually incurred or are in line with nationally agreed rates are not taxable.

Taxable and NI-able Expenses Tax and National Insurance contributions will be deducted at the standard rate from members monthly allowance payment.
Members should note that it is their personal responsibility to inform HMRC if as a result of receiving their members allowance, they either are or become liable to pay higher rates of tax or have a change in their national insurance position e.g. reach state pension age

Tax and NIC Treatment

Members pay tax and national insurance contributions on

- Basic Allowance
- Special Responsibility Allowance
- Carers Allowance
- Car mileage which is claimed from Home to the Town Hall or from another workplace to the Town Hall (if this is additional mileage).

The following will also be subject to tax and national insurance contributions at source.

- Telephone installation costs.
- 75% of the cost of a travel ticket will be subject to tax and NI to cover private use. The following will also be taxable but will not be taxed at source.

Members will be provided with a year-end benefits statement P11D with these details on. These should be included on their own tax returns as “other income”.

- Computers for home use where the total cost of the equipment exceeds £2500.
- Any other benefits in kind.

Members will be provided with a car mileage statement at the tax year end showing details of their car mileage payments. If Members are required to complete their own tax returns, they will not have to account for car mileage allowances from the Authority.

There have been occasions where Members have paid too much NI because of the contributions they had already made via their employer. If a Councillor earns above the threshold (currently £33,450pa), they could request deferral on the NI contribution arising from their Members Allowance. HMRC would then assess at the year end the level of contribution required. If the deferment was agreed their NI contribution on earnings above the threshold would fall to 1%. Members may wish to seek advice from MHRC if they feel their circumstances warrant it.

Members do not pay tax and national insurance contributions on:

- Business journeys e.g. travelling from the Town Hall to another Authority
- travelling expenses necessarily incurred when performing duties of the office of employment providing there is no element of profit or personal use i.e. Bus Fares, Train Fares, Taxi Fares.
- any other expenses which are wholly, exclusively and necessarily incurred in the performance of their duties, providing the prescribed rates are not exceeded and there is no element of profit or personal use.

Daily subsistence allowances are classed as emoluments and are taxable when they are paid for meetings of the Authority at the Town Hall. Other daily subsistence allowances are not taxable. Overnight subsistence and conference travelling, and subsistence allowances are not taxable provided the rates quoted in this Scheme are not exceeded.

It should be noted that it is for HMRC to determine what is taxable and what is not taxable and that they do apply their rules very strictly.

HMRC will need to be satisfied that the reimbursements have actually been incurred.

It is also possible for Members to claim tax relief on certain of the expenses they incur in the pursuit of their duties, providing certain criteria are met.

TAX RELIEF FOR EXPENSES

A number of expenses are eligible for tax relief: -

<u>Household Expenses</u>

Where it costs a Member more for lighting, fuel etc. to carry out Member duties at home, a standard allowance of £135 may be permitted by HMRC. (NB the Council does not pay for these expenses and Members must actually claim the relief themselves from HMRC).

No tax allowance can be made for postage/stationery/secretarial services as these are made available by the Council for Members.