



**NORTHUMBERLAND**  
Northumberland County Council

# CONSTITUTION



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# PART 1

# SUMMARY AND EXPLANATION

# The Council's Constitution

The Northumberland County Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution contains 18 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## How the Council operates

The Council is made up of 67 members otherwise known as councillors. Councillors are democratically accountable to residents of their Electoral Division. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct. The Committee considers complaints about councillors and decides if any action should be taken.

All councillors meet together as the Council, often referred to as "full Council". Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year.

## How decisions are made

The Cabinet is the part of the Council which is responsible for the implementation of Council policy. The Cabinet is made up of up to ten councillors. The Leader of the Council appoints the members of the Cabinet. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## Overview and Scrutiny

There are four Overview and Scrutiny Committees who support the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet. The Scrutiny process allows for a decision which has been made by the Cabinet but not yet implemented to be 'called in'. This enables them to consider whether the decision is appropriate. Members may

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

## Local Area Councils

In order to give local citizens a greater say in local area affairs, 5 local area councils have been created. They are: North Northumberland, Tynedale, Castle Morpeth, Ashington and Blyth and Cramlington, Bedlington and Seaton Valley. They have wider terms of reference than the previous area committees, and include local planning decisions and recommending adjustments to budget priorities in relation to local transport plan issues within their area. They aim to empower citizens, strengthen communities and improve services. They involve councillors for each particular area and are held in public.

## The Council's officers

The Council has employees working for it (called 'officers') whose role is to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and members of the council.

## Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. Other external bodies such as the local Citizens' Advice Bureau can advise on individuals' legal rights.

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

### **Citizens have the right to:**

- o vote at local elections if they are registered;;
- o attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- o see reports and background papers, and any record of decisions made by the Council, Cabinet and Committees but not those classified as exempt;
- o find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- o attend meetings of the Cabinet where key decisions are being discussed or decided;
- o petition to request a referendum on a mayoral form of Cabinet;
- o petition the Council, the Cabinet or Committees on issues relating to council business or services

- o contact their local councillor about any matters of concern to them;
- o complain to the Council about the standard of service, action or lack of action
- o complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- o complain to the Council's Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- o inspect the Council's accounts and make their views known to the external auditor.
- o obtain a copy of this Constitution

The Council welcomes participation by its citizens in its work .The Council has a statement of the rights of citizens to inspect agendas and reports and attend meetings. For further information on your rights as a citizen, please contact Democratic Services at County Hall, Morpeth, Northumberland, NE61 2EF from whom a copy of this Constitution and other documents referred to herein are available, or alternatively, you might wish to obtain these directly from the Council's website at [www.northumberland.gov.uk](http://www.northumberland.gov.uk)

# **PART 2**

# **GOVERNANCE**

## **HOW WE RUN THE COUNCIL**

# **Article 1 – The Constitution**

## **1.01 Powers of the Council**

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

## **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of Northumberland County Council.

## **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

- (1) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (2) support the active involvement of citizens in the process of local council decision-making;
- (3) help councillors represent their constituents more effectively;
- (4) enable decisions to be taken efficiently and effectively;
- (5) create a powerful and effective means of holding decision-makers to public account;
- (6) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (7) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (8) provide a means of improving the delivery of services to the community.

## **1.04 Interpretation and Review of the Constitution**

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

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

# Article 2 – Members of the Council

## Composition

The Council will comprise 67 members, otherwise called councillors. One councillor will be elected by the voters of each Electoral Division in accordance with a scheme drawn up by the Boundary Commission except in the case of the Alnwick Division which has two members.

## Eligibility

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

### 2.01 Election and terms of councillors

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

### 2.02 Roles and functions of all councillors

#### (1) Key roles.

All councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions;
- (b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (d) balance different interests identified within the Electoral Division and represent the Electoral Division as a whole;
- (e) be involved in decision-making;
- (f) be available to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

**(2) Rights and duties:**

- (a) Councillors will only have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. Failure to do so may be construed as a breach of the Code of Conduct.
- (c) For these purposes, “confidential” and “exempt” information are defined in Appendix 3 of this Constitution.

**2.03 Conduct**

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

**2.04 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

**2.05 Member Details**

Details of all elected members of Northumberland County Council are available on the council’s website at [www.northumberland.gov.uk](http://www.northumberland.gov.uk)

# Article 3 – Citizens and The Council

## 3.01 Citizens' rights

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

**(1) Voting and petitions.**

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

**(2) Information.**

Citizens have the right to:

- (a) attend meetings of the Council and its committees, with reasonable adjustments being made to allow participation, except those parts of meetings where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
- (b) attend meetings of the Cabinet when key decisions are being considered;
- (c) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (d) see reports and background papers, and any records of decisions made by the Council, Cabinet and Committees provided that they have not been classed as exempt under the access to information legislation; and
- (e) inspect the Council's accounts and make their views known to the external auditor.

**(3) Participation.**

Citizens have the right to contribute to investigations by overview and scrutiny committees in accordance with the procedures agreed by the Council or the Committees.

**(4) Complaints.**

Citizens have the right to complain to:

- (a) the Council under the complaints procedure;
- (b) the Ombudsman after using the Council's own complaints scheme;
- (c) the Council's Standards Committee about a breach of the Councillor's Code of Conduct.

**(5) Petitions**

Citizens have the right to petition the Council in accordance with the petition procedure set out in Appendix 2

**3.02 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. Where appropriate the Council has the right to refuse to engage with offending individuals.

# Article 4 – The Full Council

## Introduction

Meetings of the full Council involve all 67 councillors and with the dates and frequency set out in the diary of meetings as agreed by full council. An annual meeting will be held in May each year when the appointments of the Civic Head and Deputy Civic Head of the County Council and councillors to the various committees of the Council are made.

While the majority of the work of the Council is delegated to the Cabinet and these committees and also to officers full Council remains directly responsible for the functions listed below at 4.02 below.

### 4.01 Meanings

#### Budget and Policy Framework

- (1) Policy Framework. The policy framework means the following plans and strategies:-
  - (a) *those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations under section 32 of the Local Government Act 2000 to be adopted by the Council:*
    - Children and Young Peoples Plan
    - Sustainable Community Strategy
    - Crime and Disorder Reduction Strategy
    - Housing Investment Programme
    - Licensing Authority Policy Statement
    - Local Transport Plan
    - Local Development Framework Plans and Strategies
    - Council's Corporate Plan
    - Adult Learning Plan
    - Gambling Policy
  - (b) *other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.*
    - Schedule and Planning Policy Documents which do not form part of the Statutory Development Plan
    - Climate Change Action Plans
    - The Northumberland Cultural Strategy
    - Joint Municipal Waste Management Strategy for Northumberland
    - Corporate Governance Framework
    - Tackling Disadvantage: NCC's Social Inclusion Strategy

- Equality and Diversity Policy Statement
- Anti-Social Behaviour Enforcement Policy
- Northumberland Coast Area of Outstanding Natural Beauty Management Plan
- Such other policies as are specifically adopted as part of the policy framework by the County Council.

**(2) Budget.**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure, the policy on fees and charges, investments and the setting of virement limits

#### **4.02 Functions of the Full Council**

Only the Council will exercise the following functions:

- (1) adopting and changing the Constitution;
- (2) approving or adopting the policy framework and the budget;
- (3) appointing the Leader, the Business Chair, Civic Head and Deputy Civic Head of the County Council, and the Chair of the Standards Committee (who shall not be a serving Councillor);
- (4) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them; appointing the Chair and Vice Chair of all committees of council.
- (5) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council to the area committees or otherwise;
- (6) adopting a Members' Allowances scheme
- (7) and such other matters as set out in Part 3 of the Constitution.
- (8) subject to the urgency procedure contained in the Access to Information Procedure Rules in Appendix 3 to this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;

#### **4.03 Council meetings**

There are three types of Council meeting:

- (1) the annual meeting;
- (2) ordinary meetings,
- (3) extraordinary meetings

and they will be conducted in accordance with the Rules in Part 5 of this Constitution.

## **Article 5 – Chairing the Council**

### **5.01 Role and function of the Chair**

**The Business Chair will be elected by the Council at its annual meeting for the ensuing year.**

**The Business Chair and in his/her absence the Deputy Business Chair, will have the following responsibilities:**

- (1) To participate in the formulation implementation of Council policy, including taking the lead on and proposing new policy, strategy, programming, budget and service standards.
- (2) To act as a council spokesperson and consult and communicate with members of all party groups, officers and key partners as appropriate to ensure that council policies are widely understood and positively promoted
- (3) To act as chair of appropriate committees including full council
- (4) To have responsibility for liaison with the Head of Paid Service and members of the Management Board as required by the Leader.
- (5) To act as a spokesperson within and outside the Council and the wider community
- (6) To represent the council in the community and elsewhere
- (7) to preside impartially over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (8) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Portfolio Holders to account; and
- (9) to promote public involvement in the Council's activities
- (10) Such other duties as may be delegated by the Leader of the Council

### **5.02 Prohibition on membership of the Cabinet**

Under prevailing legislation the Business Chair of the Council cannot also be a member of the Cabinet

## Article 5a – Civic Head of the County Council

### 5.03 Role and function of the Civic Head

The Civic Head of the County Council will be elected by the Council annually.

The Civic Head and in his/her absence the Deputy Civic Head, will have the following responsibilities:

- (1) As the county's first citizen act in an impartial manner as an ambassador for Northumberland by promoting the county at a local, regional and national level
- (2) Act as a symbol of the council's democratic authority in an impartial manner and encourage democratic engagement at all levels but particularly among young people.
- (3) Promote community cohesion by working with individuals, ethnic minorities' community groups, the voluntary, public and private sector.
- (4) Receive members of the Royal Family and other important visitors to the county and council
- (5) Be committed to the values of the council, promote those values
- (6) Encourage democratic engagement at all levels and specifically by teaching civic pride to local young people by hosting and visiting schools
- (7) Host the civic and ceremonial hospitality programme and preside over key civic functions.
- (8) Open exhibitions, events and ceremonies on behalf of the county
- (9) Visit schools and community groups, hosting such visits to the council premises
- (10) Promote the Civic Head's charity by organising fund raising events and obtaining sponsorship
- (11) Be committed to the values of the council and follow the values of public office
- (12) Delegate duties to the Vice Civic Head as appropriate.
- (13) Help to create closer working relationships with town and parish councils in the county

(14) Attend Religious events of all denominations

# **Article 6 – The Cabinet**

## **The Role of the Cabinet**

### **6.01   Role**

The Cabinet will carry 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.

### **6.02   Form and composition**

The Cabinet will consist of the Leader appointed by the Council together with at least 2, but not more than 9, councillors appointed by the Leader.

### **6.03   Leader**

The Leader will be a councillor appointed by the Council at its annual meeting following whole council elections or as prescribed by Statutory Instrument. The Leader will hold office until:

- (1)   he/she resigns from the office; or
- (2)   he/she is removed from office by resolution of the Council in accordance with the provisions of the Local Government Act 2000

### **6.04   Deputy Leader**

The Leader shall annually appoint one Member of the Cabinet to be Deputy Leader who shall exercise the functions of the Leader in the absence of the Leader.

The Deputy Leader shall hold office until:

- (1)   he/she resigns from office; or
- (2)   he/she is no longer a councillor; or
- (3)   he/she is removed from office by the Leader of the Council.

### **6.05   Other Cabinet Members**

Other Cabinet members shall hold office until:

- (1)   they resign from office; or

- (2) they are no longer councillors; or
- (3) they are removed from office, either individually or collectively, by the Leader of the Council.

## **6.06 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 5 of this Constitution.

## **6.07 Responsibility for Functions**

The Leader will maintain a list in this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

## **6.08 Strategic Leadership**

The Cabinet collectively shall have clear responsibility for a range of corporate decisions and individually Cabinet Members will provide the strategic leadership for their portfolios.

## **6.09 Appointment of sub-committees and working groups**

The Cabinet can appoint its own sub-committees and working groups/Cabinet Advisory Groups and determine their membership including the Chair and Vice Chair of each.<sup>1</sup>

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<sup>1</sup> Elected members on scrutiny should ensure that they do not have a conflict of interest before accepting an appointment

# THE CABINET

<b>Cabinet Portfolio</b>	<b>Cabinet Portfolio</b>
<p><b>Leader of the Council</b>            Corporate Strategy and Policy; Budget Strategy and Medium Term Financial Plan; Capital Programme and Asset Management Strategy (in liaison with the Economic Development portfolio holder); Partnership development with local organisations; Relationships with external bodies, including Government, NELEP and the Combined Authority.</p>	<p><b>Deputy Leader and Children's Services</b>            To deputise for the Leader in undertaking his duties as required; Children's Services; Family Services; Early Years; Schools; Children's Health; Youth Services; Youth Offending; Teenage Sexual Health; Special Education Needs and Disability;            Adult and Community Education; Training, Skills and Enterprise; Employability and access to work; Safeguarding and Corporate Parenting; Looked After Children.</p>
<p><b>Corporate Services and Cabinet Secretary</b>            Performance Management; Marketing, Branding and Communications; ICT Connectivity; Corporate Governance; Corporate Services; Audit; Risk Strategy; Procurement Strategy; Financial Services; Registrars and Registration; Shared and Traded Services; Organisational Development (supported by Deputy Business Chair).</p>	<p><b>Culture, Arts, Leisure and Tourism</b>            Cultural Strategy; Delivery Assurance of Active Northumberland, Northumberland Tourism and Woodhorn Museum Charitable Trust; Tourism; Sport Strategy; Leisure Strategy; Play Strategy; Arts and Heritage; Customer Services Strategy; Libraries and Museums; Voluntary and Community Sector.</p>
<p><b>Economic Development</b>            Economic Strategy; Delivery assurance of Arch (Northumberland Development Co); Transport Strategy (Local Transport Plan) and Strategic Transport infrastructure; Public Transport Strategy; Community Regeneration; Town and Parish Councils.</p>	<p><b>Adult Wellbeing and Health</b>            Adult Social Care; Safeguarding and Strategic Commissioning; Welfare of vulnerable people; Financial well being and fuel poverty; Carers Well Being; Ageing Well; Public Health; Mental Health and Emotional Well Being; Healthy Eating and Physical Activity; Smoking Cessation; Alcohol and Drugs Misuse; Shared and Traded Services in relation to Care and Well Being; Social Inclusion; Equality and Diversity.</p>
<p><b>Environment and Local Services</b>            Climate Change; Environmental Enforcement; Countryside Management; Rights of Way; Parks Management; Coastal Protection; Flood Protection; Transport Connectivity; Road Strategy and Highway Maintenance; Public Transport Delivery; Home to School Travel; Street Lighting; Street Cleaning Services; Waste Management Strategy; Recycling Strategy; Markets; Cemeteries; Public Conveniences.</p>	<p><b>Planning, Housing and Resilience</b>            Planning Strategy; Neighbourhood Planning; Development Management Policy; Housing; Conservation; Areas of Outstanding Natural Beauty; Building Control; Environmental Health; Trading Standards; Licensing; Resilience Strategy; Emergency Planning; Fire &amp; Rescue Service; Public Protection.</p>

# Article 7 – Overview and Scrutiny Committees

## 7.01 Terms of Reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
<b>Communities and Place Overview and Scrutiny Committee</b>	Matters relating to Culture, Arts, Leisure and Tourism, and to the provision of Council services to communities in the built and natural environment of Northumberland.
<b>Corporate Services and Economic Growth Overview &amp; Scrutiny Committee</b>	Matters relating to economic development and the Council's corporate services.
<b>Family and Children's Services Overview &amp; Scrutiny Committee</b>	Matters relating to the provision of education, lifelong learning and safeguarding children.
<b>Health and Well Being Overview &amp; Scrutiny Committee</b>	Matters relating to the provision of health services in Northumberland and the general well-being of its residents, and to hold to account the Health & Wellbeing Board.

In considering membership of such committees, due regard should be paid to the potential contribution of community stakeholders outside the council.

The Committees shall be entitled to co-opt non-members as non-voting co-optees as necessary for a particular matter that is subject to scrutiny.

## 7.02 General

Within their terms of reference, the Overview and Scrutiny Committees, and their sub-committees, will

- (1) Review and/or scrutinise decisions made (and proposed), or actions taken in connection with the discharge of any of the Council's functions;
- (2) Make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or Local Area Council in connection with the discharge of any functions;

- (3) Consider any matter affecting the area or its inhabitants; and
- (4) Exercise the right to call-in, for reconsideration, (through the Chairmen's Group) decisions made but not yet implemented by the Cabinet and/or any policy or Local Area Council.

#### **7.03 Specific functions**

Within their terms of reference, Overview and Scrutiny Committees, and their sub-committees, may

- (1) Assist the Council and the Cabinet in the development of the Council's budget and policy framework;
- (2) Review and scrutinise the decisions made by and performance of the Cabinet and/or Local Area Councils and council officers both in relation to individual decisions and over time;
- (3) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (4) Question members of the Cabinet and/or committees and chief 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;
- (5) Make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (6) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance;
- (7) Report and make recommendations to the Council or Cabinet on matters which affect the Council's area or the inhabitants of the area; and
- (8) Question and gather evidence from any person (with their consent).

#### **7.04 Overview and Scrutiny Budget**

Overview and Scrutiny Committees have overall responsibility for spending the budget made available to them.

## **7.05 Annual Report**

Overview and Scrutiny Committees must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## **7.06 Officers**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Rules as set out in Part 5 of this Constitution.

## **Article 8 – Regulatory and other committees**

### **8.01 Regulatory and other committees**

The Council will appoint the committees to discharge its regulatory functions. Councillors should normally only participate in the decision making processes of such committees after receiving appropriate training in the functions of that committee.

### **8.02 Northumberland County Council LGPS Local Pension Board**

In accordance with Section 5 of the Public Service Pensions Act 2013, a local Pension Board assists Northumberland County Council in the governance and administration of the Northumberland County Council LGPS. The Board's role, members, terms of reference and working arrangements are contained in Appendix 4 to this Constitution. Note that this LGPS Local Pension Board is not a local authority committee.

### **8.03 Firefighters' Pension Scheme for Northumberland Fire and Rescue Service Local Pension Board**

In accordance with Section 5 of the Public Service Pensions Act 2013, a local Pension Board assists Northumberland County Council in its capacity as Fire and Rescue Authority, in the governance and administration of the Firefighters' Pension Scheme (FPS). The Board's role, members, terms of reference and working arrangements are contained in Appendix 4 to this Constitution. Note that this FPS Local Pension Board is not a local authority committee.

# Article 9 - The Standards Committee

## **9.01 Standards Committee**

The Council will establish a Standards Committee.

## **9.02 Composition**

The Standards Committee will be composed of eight county (3:3:1:1) and three parish councillor representatives, one from each area and one independent co-optee as its Chair. No more than one member of the Council's Cabinet may serve on this Committee. The parish council members and any co-optees are not entitled to vote at meetings.

## **9.03 Chairing the Committee**

The Chair of the Committee will be appointed by Council as a person independent from the Council. As a co-optee the Chair is not entitled to vote at meetings.

## **9.04 Role and Function**

The Standards Committee will have the following roles and functions:

- (1) promoting and maintaining high standards of conduct by councillors, town and parish councillors, co-opted members and church and parent governor representatives;
- (2) assisting the councillors, town and parish councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (3) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (4) monitoring the operation of the Members' Code of Conduct;
- (5) advising, training or arranging to train councillors, town and parish councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (6) granting dispensations to councillors, town and parish councillors, co-opted members church and parent governor representatives from requirements relating to Disclosable Pecuniary Interests set out in the Members' Code of Conduct, and
- (7) assessing and reviewing complaints about councillors and conducting determinations' hearings
- (8) granting exemptions for politically restricted posts
- (9) such other roles as may be given by the Council.

# Article 10 - Local Area Councils

## 10.01 Local Area Councils

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

The Council will consult with relevant parish/ town councils, the chairs of relevant parish meetings and other relevant persons/organisations when considering whether and how to establish local area councils.

## 10.02 Form, composition and function

- (1) The Council will appoint the five local area councils. They are North Northumberland, Tynedale, Castle Morpeth, Ashington and Blyth, and Cramlington, Bedlington and Seaton Valley. Their terms of reference are set out in Part 2 of the Constitution and their membership consists of all councillors whose divisions lie in each area.
- (2) Delegations. The Council and the Cabinet will include details of any delegations to local area councils in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Cabinet and which are not, the composition and membership of the committees, budgets and any limitations on delegation.
- (3) Local Area Councils may appoint sub-committees or working groups which will be provided with administrative support at the discretion of the Head of Paid Service

## 10.03 Conflicts of interest – membership of local area councils and Overview and Scrutiny Committees

- (1) Conflict of interest.

If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the local area council of which the councillor concerned is a member, then the councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.

- (2) General policy reviews.

Where the Overview and Scrutiny Committee is reviewing policy generally, the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

#### **10.04 Local Area Councils – access to information**

Local Area Councils will comply with the Access to Information Rules in Appendix 3 of this Constitution. Agendas and notices for meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet, will state clearly which items are which.

#### **10.05 Cabinet members on local area councils**

A member of the Cabinet may serve on a local area council if otherwise eligible to do so as a councillor.

The relevant Cabinet Member may be invited to attend a meeting of a local area council depending upon the subject matter in question.

# Article 11 - Joint Arrangements

## 11.01 Arrangements to promote well being

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

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

## 11.02 Joint arrangements

- (1) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (2) The Cabinet 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.
- (3) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local council as a whole.
- (4) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
  - (a) the joint committee has functions for only part of the area of the council, and that area is smaller than two-fifths of the council by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area;

The political balance requirements do not apply to such appointments.

- (5) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 4 of this Constitution.

## 11.03 Access to information

- (1) The Access to Information Rules in Appendix 3 of this Constitution apply.

- (2) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (3) If the joint committee contains members who are not on the Cabinet of any participating council then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **11.04 Delegation to and from other local authorities**

- (1) The Council may delegate non-executive functions to another council or, in certain circumstances, the Executive of another local council.
- (2) The Cabinet may delegate executive functions to another council or the Executive of another council in certain circumstances.
- (3) The decision whether or not to accept such a delegation from another local council shall be reserved to the Council meeting.

## Article 12 - Officers

### 12.01 Management structure

#### (1) General.

The Council may engage such employees as it considers necessary to carry out its functions.

#### (2) Chief Officers.

The Council will engage persons for the following posts, who will be designated chief officers for the purposes of the Local Government and Housing Act 1989 and all of whom shall contribute to the corporate and strategic development of the Council.

Post	Functions and areas of responsibility
Chief Executive (Head of Paid Service and Section 151 Officer)	To act as the Head of Paid Service and have authority over all other Directors so far as is necessary for efficient management and for carrying out the Council's functions; to be the Council's principal advisor on overall policy and to be responsible for all matters not specifically referred to any other Directorate.  To act as the Chief Finance Officer and Section 151 Officer and to exercise the powers of the Council to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of the business afforded to the post under the Council's delegated powers scheme.  To exercise the powers of the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of the business afforded to the post under the Council's delegated powers scheme.
Executive Director of Wellbeing and Community Health	To be the Director of Adult Social Services for the purposes of the Local Authority Social Services Act 1970  To be the Council's Director of Children's Services for the purposes of the Children Act 2004  To exercise the powers of the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of the business afforded to the post under the Council's delegated powers scheme

Executive Director of Local Services	To exercise the powers of the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of the business afforded to the post under the Council's delegated powers scheme

**(3) Monitoring Officer**

The Council will designate the post of Legal Services Manager or equivalent as its Monitoring Officer

**(4) Deputy Section 151 Officer**

The Council will designate the post of Head of Corporate Services or equivalent as its deputy Section 151 Officer.

NB – The above postholders will have unrestricted and direct access to the Leader, Deputy Leader and Chair of Audit Committee as may be required to fulfil the statutory requirements of their respective roles.

**(5) Structure**

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers.

**12.02 Functions of the Head of Paid Service**

- (1) The head of paid service 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.
- (2) The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

**12.03 Functions of the Monitoring Officer**

- (1) The monitoring officer shall have those functions as are detailed in the monitoring officer protocol in Appendix 4 of this Constitution.

**12.04 Functions of the Section 151 Officer and his/her Deputy**

- (1) 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 an executive 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.

- (2) Administration of financial affairs. The chief finance officer will have responsibility for the proper administration of the financial affairs of the Council in accordance with the Finance and Contract Rules.
- (3) Contributing to corporate management. The chief finance officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (4) Providing advice. The chief finance officer jointly with the monitoring officer will provide advice on the scope of powers and council to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (5) Give financial information. The chief finance officer will provide appropriate financial information to the media, members of the public and the community.

## **12.05 Conduct**

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

## **12.06 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **12.07 Finance and Contract Rules**

Officers shall comply with the Finance and Contract Rules which accompany this Constitution.

# **Article 13 - Decision Making**

## **13.01 Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions

## **13.02 Principles of decision making**

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

- (1) proportionality (i.e. the action must be proportionate to the desired outcome);
- (2) due and appropriate consultation and the taking of professional advice from officers;
- (3) respect for human rights;
- (4) a presumption in favour of openness; and
- (5) clarity of aims and desired outcomes.

## **13.03 Types of decision –**

- (1) Decisions reserved to full Council.

Decisions relating to the functions listed in Part 3 will be made by the full Council and not delegated.

- (2) Key decisions.

(a) A key decision means an executive decision which is likely:

- to result 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; or
- to be significant in terms of effects on communities living or working in an area comprising two or more electoral divisions within the area of the Council.

(b) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 5 of this Constitution.

- (3) Criteria for local key decisions.

(a) 'milestone' decisions, the timing of which will be known well in advance of

the decision being taken. Examples include plans and strategies outside the Policy and Budget Framework, value for money and Auditors' reviews.

- (b) substantive commitments within the Corporate Plan and Service Plans which involve a material change in policy and/or significant service development. In such cases it will be for the Cabinet Member to determine what is 'material' or 'significant'. It should be possible to determine the timing of required decisions well in advance of the decision being taken.
- (c) operational decisions within the financial limits of the delegation scheme but which in the view of the relevant Cabinet Member may involve a material change of policy, are politically sensitive or may have a significant impact on a local community or reputation of the Council

#### **13.04 Decision making by the Full Council**

Subject to 13.08 below, the Council meeting will follow the Council Procedure Rules set out in Part 5 of this Constitution when considering any matter.

#### **13.05 Decision making by the Cabinet**

Subject to 13.08 below, the Cabinet will follow the Cabinet Procedure Rules set out in Part 5 of this Constitution when considering any matter.

#### **13.06 Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 5 of this Constitution when considering any matter.

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

Subject to 13.08 below, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 5 of this Constitution as apply to them.

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

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

All Councillors and Officers will comply with the legislative requirements on access to information, decision making and recording having due regard to the criminal penalties for failure in certain circumstances.

# **Article 14 - Finance, Contracts and Legal Matters**

## **14.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Finance and Contract Rules accompanying this Constitution.

## **14.02 Contracts**

Every contract made by the Council will comply with the Finance and Contract Rules accompanying this Constitution.

## **14.03 Legal proceedings**

The Legal Services Manager or equivalent is authorised to institute, defend or participate in any administrative action and/or legal proceedings and to sign any document in any case where such action will facilitate the carrying out of decisions of the Council or in any case where the Legal Services Manager or equivalent considers that such action is necessary to protect the Council's interests, or to further or achieve the objectives of the Council and such powers may be exercised by any officer authorised by the Legal Services Manager or equivalent under their own name and for the sake of clarity the Legal Services Manager of equivalent may settle or otherwise compromise any such administrative action or legal proceedings if they have been commenced or there are reasonable grounds for believing such actions or proceedings may be contemplated.

## **14.04 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Legal Services Manager or equivalent. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Legal Services Manager or equivalent should be sealed. The affixing of the Common Seal will be attested by the Legal Services Manager or equivalent or some other officer authorised by him/her.

# Article 15 - Review and Revision of the Constitution

## **15.01 Duty to monitor and review the constitution**

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

## **15.02 Protocol for monitoring and review of constitution by monitoring officer**

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

- (1) observe meetings of different parts of the member and officer structure;
- (2) undertake an audit trail of a sample of decisions;
- (3) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (4) compare practices in this council with those in other comparable authorities, or national examples of best practice.

## **15.03 Changes to the Constitution**

Changes to the constitution will only be approved by the full Council after consideration of a written report from the Monitoring Officer in consultation with the Head of the Paid Service, the Section 151 Officer and his/her deputy.

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

## 16.01 Suspension of the Constitution

### (1) Limit to suspension.

The Sections of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

### (2) Procedure to suspend.

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## 16.02 Interpretation

The ruling of the Business Chair as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## 16.03 Publication

- (1) The Head of Paid Service will give a printed copy of this Constitution to each member of the council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (2) The Head of Paid Service will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by the public on payment of a reasonable fee.
- (3) The Head of Paid Service will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## 16.04 Specific Definitions

“plan or strategy” means -

- (a) a plan or strategy of a description specified in column (1) of the table in Schedule 3 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (functions not to be the sole responsibility of a council’s Executive), as

amended from time to time;

- (b) a plan or strategy for the control of a relevant council's borrowing or capital expenditure; or
- (c) any other plan or strategy whose adoption or approval is, by virtue of regulation 5(1) of the Local Authorities (Functions and Responsibilities)

(England) Regulations 2000 (discharge of executive functions by authorities) as amended from time to time, a matter for determination by a relevant council;

and such plans or strategies shall be referred to as "The Budget and Policy Framework".

"working day" means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday in England or a day appointed for public thanksgiving or mourning (and "bank holiday" means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971).

## **Article 17 – The Declaration of Human Rights**

Northumberland County Council has decided that the Universal Declaration of Human Rights should be adopted by the Council and included within its constitution.

The Universal Declaration of Human Rights adopted and proclaimed by the United Nations General Assembly on 10 December 1948 and is set out in Appendix 1.

## **PART 3**

### **MATTERS RESERVED TO ELECTED MEMBERS & COMMITTEE TERMS OF REFERENCE**

## INTRODUCTION

The functions of local authorities are exercised by Council, the Cabinet and those delegated to officers. Full Council may in turn appoint committees to exercise its functions.

This part of the Constitution sets out the matters reserved to elected members through council, its committees and the Cabinet. It has to be read in conjunction with the officer delegation scheme which follows this part.

The law allows some functions to be treated by the council as either the responsibility of the Cabinet or carried out by the Council or one of its committees (local choice functions)

There are some functions which, under the law, cannot be the responsibility of the Cabinet. In some cases, such as adopting the Council's budget or the Policy Framework, only full Council may discharge the function. In other cases, the Council may delegate the responsibility for discharging a function to a committee or an officer

All other functions are executive functions. Decisions on these will be taken by the Cabinet, unless they are dealt with under joint arrangements or delegated to a committee of the Cabinet or an officer.

<u>Name of Committee</u>	<u>Membership – elected members</u>
Cabinet	8
Adoption Panel	1 *
Appointments Committee – School Governors and Academies	4
Audit Committee	8*
County Emergency Committee	8
Dismissal Advisory Committee	0*
Disputes Panel (Fire Services)	8
Governing Body of Netherton Park	8*
Fostering Panel	1
Health & Wellbeing Board	5*
Licensing and Regulatory Committee	15
Licensing Committee	15
Pension Fund Panel	6
FPS Pension Board	2 *
LGPS Pension Board	1 *
Local Area Councils	13-16
Petitions Committee	8
Rights of Way	8
Scrutiny Committees:	
Health & Wellbeing	10
Communities and Place	10
Corporate Services and Economic Growth	10
Family and Children Services	10*
Staff and Appointments	8
Staff (appeals)	3 (from a pool of members)
Standards	8*
Standing Advisory Council on Religious Education	4*

\*external appointees also made

## 1. Full Council

### Appointments

- To appoint Members and co-optees to committees, sub-committees, and working groups (other than those of the Cabinet)
- To appoint any individual –
  - (a) to any office other than an office in which he is employed by the authority;
  - (b) to any body other than -
    - (i) the authority;
    - (ii) a joint committee of two or more authorities; or
  - (c) to any committee or sub-committee of such a body
    - Approval of the appointment of Head of Paid Service (on a committee recommendation)
    - Certain appointments to outside bodies and joint committees

The Leader with the consent of the opposition Group Leaders, may appoint any Councillor or Officer to casual vacancies for the appointments listed above save for that of the Head of Paid Service.

### Members' Allowances

- To make, amend, revoke or replace a Members' Allowances Scheme (on the recommendation of an Independent Remuneration Panel or IRP)
- To determine the allowances; of the Civic Head and Deputy Civic Head of the County Council, financial loss allowances and for travelling and subsistence (on the recommendation of the IRP)

### Electoral arrangements

- To make a request under section 14(A)(1) of the Local Government Act 1992 for single member electoral areas
- To change a scheme for elections under section 32(1) or 39(1) of the Local Government and Public Involvement in Health Act 2007 (elections by thirds/halves)
- To pass a resolution to change the name of an electoral area under Section 59(1) of the 2007 Act.
- To appoint a Returning Officer for local government elections
- To appoint an Electoral Registration Officer

## Governance arrangements

- To pass resolutions in relation to governance arrangements (elected mayor/executive) contained in the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007
- Elect and remove an Executive Leader (Local Government and Public Involvement in Health Act 2007)
- To make an order giving effect to the recommendations contained in a community governance review
- To make arrangements for the discharge of functions by a committee or officer
- To discharge any function which by virtue of any enactment passed or made before making of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 may be discharged only by a council
- To change the name of the county
- Power to petition for a charter
- To confer the title of honorary aldermen or freeman of the county
- To make, amend, revoke or re-enact byelaws
- To make arrangements for the proper administration of financial affairs
- Powers relating to co-option and voting rights
- To make and amend Standing Orders and Contract Standing Orders

## Appointments

To designate the following appointments

- Head of Paid Service
- Executive Directors
- S.151 Officer
- Monitoring Officer
- Proper officers for specific functions such as Births, Deaths and Marriages, Scrutiny
- Other posts as required under the Council's Pay Policy

## Plans and Strategies

Formulating plans and strategies relating to

- Council's borrowing, treasury management, capital expenditure or determining the council's minimum revenue provision
- Giving instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for council's consideration as part of the policy framework
- amend any draft plan or strategy forming part of the policy framework submitted by the Cabinet for council's consideration
- approve for the purposes of public consultation in accordance with Regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, draft proposals associated with the preparation of alterations to or the replacement of a development plan
- approve plans/strategies as directed by the government

## Budget and Policy Framework

- To amend, modify, revise, vary, withdraw or revoke any plan or strategy detailed in the council's policy framework by virtue of legislation or local discretion

#### Disposals of Land

- To authorise the making of an application for certain disposals of land under the Leasehold Reform, Housing, and Urban Development Act 1993 and the Housing Act 1985

#### Financial calculations and precepts

- Approval of the budget and setting the Council Tax

#### Delegation – authorisations and revocations

- To authorise a person to exercise a function pursuant to an order made under S.70 of the Deregulation and Contracting Out Act 1994, where the responsibility is not that of the Cabinet

#### General

- Determination of matters relating to the budget, borrowing, capital expenditure contrary to the Budget and Policy Framework (except in the cases of urgency)

#### Licensing

To discharge the functions relating to the

- Statement of licensing policy
- Passing of a resolution not to issue a casino premises licence
- Establish a licensing committee; and
- The exercise and delegation of functions

## **2. The Cabinet**

- All the functions of the Council are executive functions except for those that are the responsibility of the Council or a body established by the Council.
- Executive functions will be exercised by the Cabinet collectively except where the matter is dealt with under joint arrangements or delegated to an officer or where the Council has agreed a proposal for decision making by individual members of the Cabinet.
- The Cabinet will discharge these functions in accordance with the Cabinet Procedure Rules and the Access to Information Rules.
- The Cabinet will take all necessary steps to prepare the authority's budget, and those plans and strategies which constitute the authority's policy framework as set out in Article 4 of this Constitution, prior to their final approval and adoption by the Council. It will undertake this work in accordance with the Budget and Policy Framework
- To make appointments to outside bodies not reserved to Council or the Local Area Councils.

- To make agreements with other local authorities for placing the staff at the disposal of those other authorities.

### **3. Adoption Panel**

#### **Terms of Reference and Powers**

- (1) To make recommendations to the Adoption Agency on whether or not a:
  - (a) child who is relinquished by parent(s) should be placed for adoption;
  - (b) prospective adopter is suitable to adopt a child
  - (c) child should be placed for adoption with particular adopters
- (2) To advise the Adoption Agency on various matters as specified in the Adoption Agencies Regulations 2005
- (3) These are Executive Functions and the Adoption Panel will submit an annual report to the Cabinet.

### **4. Appointments Committee (School Governors and Academies)**

#### **Terms of Reference and Powers**

- To recommend individuals for Local Authority representative appointments to maintained Schools and Academies;
- To appoint additional Governors as appropriate to schools requiring intervention;
- To remove Local Authority Governors from maintained Schools and Academies;
- To delegate decisions in relation to the above to officers as the Committee feels appropriate..

## **5. Audit Committee**

### **Terms of Reference and Powers**

#### **Governance, risk and control**

- (1) To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
- (2) To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
- (3) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (4) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- (5) To monitor the effective development and operation of risk management in the Council.
- (6) To monitor progress in addressing risk-related issues reported to the Committee.
- (7) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- (8) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- (9) To monitor the counter-fraud strategy, actions and resources.

#### **Internal audit**

- (1) To approve the internal audit charter.
- (2) To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- (3) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- (4) To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- (5) To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.

- (6) To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - b) Regular reports on the results of the Quality Assurance and Improvement Programme.
  - c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
- (7) To consider the head of internal audit's annual report:
  - a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.
  - b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the Annual Governance Statement.
- (8) To consider summaries of specific internal audit reports as requested.
- (9) To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- (10) To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- (11) To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- (12) To support the development of effective communication with the head of internal audit.

### **External audit**

- (1) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- (2) To consider specific reports as agreed with the external auditor.

- (3) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (4) To commission work from internal and external audit.
- (5) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial reporting**

- (1) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (2) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability arrangements**

- (1) To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
- (2) To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

## **6. Communities and Place Overview and Scrutiny Committee**

### **Terms of reference:**

- (a) To maintain an overview of the Management Agreements in place between the County Council and Active Northumberland, Woodhorn Museum Charitable Trust and Northumberland Tourism.
- (b) To monitor, review and make recommendations about:
  - Development planning
  - Neighbourhood Planning
  - Conservation
  - Housing
  - Climate Change
  - Countryside, Biodiversity and landscape quality
  - Waste Management and Energy Use
  - Public and community transport network and travel to school
  - Highway maintenance, Streetscape and the local environment
  - Local and Neighbourhood services

- Crime, Community Safety, and fear of crime
- Antisocial behaviour and domestic violence
- Fire and rescue
- Emergency services and Emergency planning
- Customer Services
- Provision of cultural and leisure facilities
- Improving quality of life through access to culture and leisure;
- Supporting economic growth in the arts, culture and leisure sectors

## **7. Corporate Services and Economic Growth Overview and Scrutiny Committee**

### **Terms of reference:**

- (a) To maintain an overview of the Council's Annual Budget and Budgetary Management via the Medium Term Financial Plan.
- (b) To review the state of Northumberland and the County Council's activity in delivering its Corporate Plan.
- (c) To maintain an overview of the Council's performance management arrangements; highlighting areas of poor performance and monitoring recovery delivery plans.
- (d) To maintain an overview of the Management Agreements in place between the Council and Arch (Northumberland Development Co)
- (e) To monitor, review and make recommendations about:
  - Corporate Services: Organisational Development, Health and Safety, ICT Strategy, Corporate Governance, Financial Services, Procurement Strategy, Risk Strategy, Shared and Traded Services
  - Partnership development co-ordination with local organisations
  - Relationships with external bodies
  - Regeneration and Economic Development
  - Strategic Transport Network and Infrastructure
  - Employability, Skills, and removing barriers to work
  - Capital Programme and Asset Management
  - Support to VCS organisations and the Council's relationship with town and parish councils.

## **8. County Emergency Committee**

### **Terms of Reference and Powers**

- (a) To function under emergency legislation and to deal with such matters concerning the Council's civil contingencies functions as may be referred to them by the Council.
- (b) To reconvene when called upon either before, during or after a significant incident or emergency whereby the County Council may be required to respond beyond its normal day to day capabilities.

## **9. Dismissal Advisory Committee**

### **Terms of Reference**

To provide independent advice to full Council on matters relating to a proposal to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer on the grounds of conduct, capability or other substantial reason.

Composition: To be appointed as and when required and to comprise the Council's Independent Person and such other Independent Person as may be appointed by the Council for such purpose

## **10. Disputes Panel (Fire and Rescue Service)**

### **Terms of Reference and Powers**

To hear disputes, as required, in accordance with the provisions in the Scheme of Conditions of Service of Local Authorities Fire Brigades.

## **11. Family and Children's Services Overview and Scrutiny Committee**

### **Terms of reference:**

- (a) To monitor, review and make recommendations about:
  - Early Years
  - Education and Schools
  - Special education needs and disability
  - Adult and Community Education
  - Training and Vocational Education
  - Lifelong Learning

- Youth Offending
- Social Services for Children and Young People
- Children's Health
- Teenage Sexual Health
- Looked After Children
- Safeguarding - Children
- Youth Services
- Family Services
- Children's Centres

(b) To oversee and monitor school improvement, as follows:

(c) To receive feedback on the Ofsted inspection of schools.

(d) To support the work of the County Council and the progress of schools on the School Intervention and Support Programme in specified categories.

(e) To receive an annual report about the number of schools that have been on the School Intervention and Support Programme, the reason(s) for their inclusion, the support given by the Council and the success of this support.

(f) To receive an annual report on the performance of schools.

## **12. Fostering Panel**

### **Terms of Reference and Powers**

The functions of the Fostering Panel are specified in Part 5 Regulation 25 of the Fostering Service (England) Regulations.

- (a) To consider each application for approval and to recommend whether or not a person is suitable to be a foster parent.
- (b) Where it recommends approval of an application, to recommend any terms on which the approval is to be given.
- (c) To recommend whether or not a person remains suitable to be a foster parent, and whether or not the terms of their approval (if any) remain appropriate.
  - (i) on the first Review carried out in accordance with Regulation 28(2); and
  - (ii) on the occasion of any other Review, if requested to do so by the Fostering Service provider in accordance with Regulation 28(5); and
- (d) To consider any case referred to it under Regulation 27(9) or 28(10)

The Fostering Panel must also:-

- (a) advise, where appropriate, on the procedures under which Reviews in accordance

with Regulation 28 are carried out by the Fostering Service provider, and periodically monitor their effectiveness.

- (b) oversee the conduct of assessment carried out by the Fostering Service provider; and
- (c) Give advice and make recommendations on such other matters or cases as the Fostering Service provider may refer to it.

## **13. Governing Body of Netherton Park**

### **Terms of Reference and Powers**

To exercise the functions of the Responsible Body of the Home

## **14. Health and Wellbeing Board**

### **Terms of reference**

- (1) To transform the way health and social care services are commissioned and provided to promote integration, improve the Health and Well Being of the population of Northumberland and reduce health inequalities.
- (2) To set out the strategic vision for health and wellbeing for Northumberland to provide a shared sense of direction for constituent organisations of the board.
- (3) To promote a shared transformational culture and set of key principles, across constituent organisations of the board, to drive positive change.
- (4) To improve the health and wellbeing of the population of Northumberland and increase the emphasis on early intervention and primary prevention.
- (5) To improve democratic accountability for health and wellbeing decision making.
- (6) To ensure that constituent organisations of the board, and other partner agencies, are cognisant of the role they play in promoting the health and wellbeing of the population and are able to maximise their contribution to this agenda.
- (7) To ensure the engagement of the public in determining needs and service commissioning.
- (8) To undertake regular reviews of the Board's activity to ensure that it is achieving what it is setting out to do.

## **Statutory functions**

- (9) To encourage all health and social care organisations which operate within Northumberland to work together in an integrated manner.
- (10) To provide all appropriate advice, assistance and support to encourage the development of formal partnership arrangements between social care and health services, making use of the powers provided by Section 75 of the NHS Act 2006.
- (11) To oversee the production of the Joint Strategic Needs Assessment (JSNA) for Northumberland, covering all needs which either fall within the responsibilities of health commissioners, but could alternatively be met or significantly affected by local authority functions or vice versa.
- (12) To produce a joint health and wellbeing strategy (JHWBS) for Northumberland, on behalf of the Council and Northumberland Clinical Commissioning Group.
- (13) To ensure that Healthwatch Northumberland and the people who live and work in Northumberland are involved in the production of the JSNA and the JHWBS.

## **Additional functions delegated by Council**

- (14) To monitor performance against designated health and wellbeing outcomes as detailed in the Health & Well Being Strategy
- (15) To advise the Council and health commissioners on steps that they could take to reduce health inequalities within Northumberland and between Northumberland and England as a whole
- (16) To promote broader integration and partnership working between the NHS, social care, public health and other local services
- (17) Any other functions that may be delegated by the Council under section 196 (2) of the Health and Social Care Act 2012.

## **15. Health and Wellbeing Overview and Scrutiny Committee**

### **Terms of reference**

- (a) To promote well-being and reduce health inequality, particularly in supporting those people who feel more vulnerable or are at risk.
- (b) To discharge the functions conferred by the Local Government Act 2000 of reviewing and scrutinising matters relating to the planning, provision and operation of health services in Northumberland.
- (c) To take a holistic view of health in promoting the social, environmental and economic well-being of local people.

(d) To act as a consultee as required by the relevant regulations in respect of those matters on which local NHS bodies must consult the Committee.

(e) To monitor, review and make recommendations about:

- Adult Care and Social Services
- Adults Safeguarding
- Welfare of Vulnerable People
- Independent Living and Supported Housing
- Carers Well Being
- Mental Health and Emotional Well Being
- Financial inclusion and fuel poverty
- Adult Health Services
- Healthy Eating and Physical Activity
- Smoking Cessation
- Alcohol and drugs misuse
- Community Engagement and Empowerment
- Social Inclusion
- Equalities, diversity and community cohesion

## **16. JCC**

### **Terms of Reference**

To bring together members and employees of the Council and their representatives in consultation on strategic and policy matters in order to further the aims and improve the efficiency of the County Council's services.

## **17. Licensing and Regulatory Committee**

### **Terms of Reference and Powers**

Except where the matter is delegated either expressly to the Head of Public Protection or alternatively to officers in accordance with the Public Protection internal scheme of management, the Licensing and Regulatory Committee has the following delegated powers:-

(i) to be responsible for licensing matters relating to the following areas, including suspension and revocation of licences and applications where there has been a refusal to grant, renew or vary a licence, or where there are relevant objections to grant, vary or renew:-

(a) amusements with prizes	(n) prize bingo
(b) animal boarding establishments	(o) sex establishments
(c ) betting tracks	(p) street collections

(d) dangerous wild animals	(q) street trading – prohibited areas
(e) dog breeding establishments	(r) theatres and cinemas
(f) game dealers	(s) film classification
(g) hackney carriage drivers and proprietors	(t) use of land as a caravan site
(h) hypnotism	(u) use of moveable dwellings and camping sites
(i) lotteries	(v) premises for acupuncture, tattooing, ear piercing and electrolysis
(j) motor salvage operators	(w) safety certificates for sports grounds
(k) pet shops	(x) zoos
(l) pleasure boats and navigators	(y) knackers yards
(m) private hire vehicle drivers, proprietors and operators	(z) scrap metal

- (ii) to be responsible for any other licensing matters, including applications for licenses or registrations which are not delegated to any other body;
- (iii) to make recommendations on licensing policy;
- (iv) to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption;
- (v) to make recommendations to full Council in respect of bye-laws, including making new, or amending or revoking existing bye-laws;
- (vi) to consider and respond on behalf of the Council to consultation exercises where it is appropriate to do so following agreement with the Chairman of the Committee.

Where the Licensing and Regulatory Committee exercises the function of determining any application or similar matter, it may do so through a Sub Committee.

## **18. Licensing Committee**

### **Terms of Reference and Powers**

- (i) The Licensing Committee will exercise all the powers and duties of the Council under the Licensing Act 2003 and the Gambling Act 2005, except for those functions that are reserved to the Council.
- (ii) The Licensing Committee may arrange for any functions which it exercises to be discharged by:-
  - a Sub Committee established by it; or
  - an officer of the Council as Licensing Authority.

The Committee will report to the Council on any such arrangements it may make.

- (iii) Where the Licensing Committee exercises the function of determining any application or similar matter, it will do so through a Sub Committee.

## **19. Local Area Councils**

### **Terms of Reference**

- (a) To enhance good governance in the area and ensure that the Council's policies take account of the needs and aspirations of local communities and do not discriminate unfairly between the different Areas.
- (b) To advise the Cabinet on budget priorities and expenditure within the Area.
- (c) To consider, develop and influence policy and strategy development of the Council, its arms-length organisations, and other relevant bodies, to ensure that they meet local requirements and facilitate efficient and transparent decision making.
- (d) To receive information, consider and comment on matters associated with service delivery including those undertaken in partnership agencies, affecting the local area to ensure that they meet local requirements, including matters relating to community safety, anti-social behaviour and environmental crime.
- (e) To consider and refer to Cabinet any issues from a local community perspective with emerging Neighbourhood Plans within their area, and consider local planning applications as per the planning delegation scheme
- (f) To consider and recommend adjustments to budget priorities in relation to Local Transport Plan issues within their area, and to make decisions in relation to devolved capital highway maintenance allocations.
- (g) To engage, through the appropriate networks, with all key stakeholders from the public, private, voluntary and community sectors to facilitate the delivery of area priorities. This will include undertaking regular liaison with parish and town councils.
- (h) To inform, consult and engage local communities in accordance with Council policy and guidance, through the appropriate networks.
- (i) To, as appropriate, respond or refer with recommendations to local petitions and councillor calls for action.

- (j) To make certain appointments to outside bodies as agreed by Council.
- (k) To determine applications for grant aid from the Community Chest, either through Panels for individual Local Area Councils, or through the Panel of Local Area Council Chairs for countywide applications.
- (l) To refer and receive appropriate issues for consideration to or from other Council Committees, and as appropriate invite Portfolio Holders to attend a meeting if an item in their area of responsibility is to be discussed.

## **20. Pensions**

### **(a) Pension Fund Panel**

#### **Terms of Reference and Powers**

The Pension Fund Panel has the power to discharge all functions and responsibilities relating to the Council's role as administering authority for the Northumberland County Council Pension Fund as set out in The Local Government Pension Scheme Regulations 2013 (as amended), the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended), and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended).

The Panel's functions include:

- (1) Ensuring the proper administration of the Local Government Pension Scheme;
- (2) Ensuring appropriate management of the investments of the Northumberland County Council Pension Fund, including keeping under review the Fund's investment strategy and management structure;
- (3) Approving and maintaining administering authority policy statements as required by the Local Government Pension Scheme Regulations including the Funding Strategy Statement, Statement of Investment Principles, Governance Compliance Statement and Communications Strategy;
- (4) Making suitable arrangements for the actuarial valuations of the Pension Fund taking into account the covenant risk posed by the participating employers; and
- (5) Appointing and reviewing the appointments of investment managers, advisers and consultants;
- (6) Nominating a representative (and substitute) to vote Northumberland County Council's shareholding in Border to Coast Pensions Partnership (BCPP) Ltd, nominating a representative (and substitute) to represent the Council on the BCPP Joint Committee, and keeping such nominations under review.

The Northumberland County Council Pension Fund's Governance Policy and Compliance Statement provide further detail of the administering authority's LGPS governance arrangements.

## **(b) Firefighters Pension Scheme (FPS) Local Pension Board**

### **Terms of Reference**

To assist Northumberland County Council as FPS Scheme Manager:

- (1) to secure compliance with the Regulations and any other legislation relating to the governance and administration of the Scheme, and requirements imposed in relation to the FPS by the Pensions Regulator; and
- (2) to ensure the effective and efficient governance and administration of the FPS.

## **(c) Local Government Pension Scheme (LGPS) Local Pension Board**

### **Terms of Reference**

To assist Northumberland County Council as LGPS Scheme Manager:

- (1) to secure compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the Scheme, and requirements imposed in relation to the LGPS by the Pensions Regulator; and
- (2) to ensure the effective and efficient governance and administration of the LGPS.

## **21. Petitions Committee**

### **Terms of Reference**

- (a) To consider those petitions of a corporate or county wide nature which do not fall within the remit of the Local Area Councils, planning and other regulatory committees (petitions about planning or licensing applications may not be considered), and to make appropriate recommendations to full Council, the Cabinet or other committees, or on matters delegated to officers, depending upon the subject matter.
- (b) To consider petitions about local issues in exceptional circumstances, when agreed by the Chair.

## **22. Rights of Way Committee**

### **Terms of Reference**

- (a) To exercise the Council's functions in relation to the survey, definition, maintenance, diversion, stopping up and creation of public rights of way.
- (b) To exercise the Council's functions as the Commons Registration Authority for common land and town/village greens in Northumberland.
- (c) To exercise the Council's functions in relation to the preparation and maintenance of the Rights of Way Improvement Plan.
- (d) To exercise the Council's functions in relation to the Northumberland National Park and County Joint Local Access Forum (Local Access Forums (England) Regulations 2007).
- (e) To exercise the Council's role in encouraging wider access for all to the County's network of public rights of way and other recreational routes.

## **23. Schools Forum**

The operation and conduct of the Schools Forum shall be in accordance with the Schools Forums (England) Regulations 2012. The Forum will have advisory and decision making powers as specified in those Regulations in relation to the School Budget, which includes not only budget shares but also all monies directly related to the education of pupils whether in school or otherwise, arrangements for early years provision, insurance, free school meals and administrative arrangements for the allocation of central government grants paid to schools via the authority. In addition, the Forum will have a significantly extended role, and will be the main consultative interface between the County Council and the school community, and could be involved in discussion on a wide range of issues outside the scope of the legislation.

## **24. Staff (Appeals) Committee**

### **Terms of Reference and Powers**

- (a) To take disciplinary action involving dismissals at Corporate Director level and deal with appeals relating to grievance, grading and discipline relating to the same Directors
- (b) To assess and determine:
  - o where necessary, applications regarding the disposal of lump sum death benefits, and

- o ex-gratia payments where the relevant Corporate Director is unable to determine the claim on behalf of the member of staff concerned.
- (c) to act in disciplinary cases involving Chief Officers and other posts as required by legislation with a further panel of 3 different councillors acting as an appeal committee in such cases.
- (d) to make recommendations to Council regarding the dismissal of a Statutory Officer (Head of Paid Service, the Monitoring Officer or the Chief Finance Officer) for capability, conduct or for some other substantial reason.

## **25. Staff and Appointments Committee**

### **Terms of Reference and Powers**

- (a) To consider and determine the overall scheme and policies in relation to employee terms and conditions.
- (b) To determine appointments of Chief Officers and appropriate deputies.
- (c) to make recommendations to Council on the appointment of the Head of Paid Service.

## **26. Standards Committee**

### **Terms of Reference and Powers**

- (a) promoting and maintaining high standards of conduct by councillors, town and parish councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, town and parish councillors co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors, town and parish councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors, town and parish councillors, co-opted members church and parent governor representatives from requirements relating to Disclosable Pecuniary Interests set out in the Members' Code of Conduct;
- (g) assessing and reviewing complaints about councillors and conducting determinations' hearings;

- (h) granting exemptions for politically restricted posts
- (i) such other roles as may be given by the Council.

## **27. Standing Advisory Council on Religious Education**

### **Terms of reference**

To advise the Authority upon such matters connected with religious worship in County schools and the religious education to be given in accordance with an agreed syllabus as the Council may refer to the Council or as the Council may see fit.

## **28. Strategic Planning Committee**

### **Terms of Reference and Powers**

(a) To exercise the powers and duties of the Council as Planning Authority in relation to development management under the Town and Country Planning Acts and other associated/related legislation and in particular, but not limited to, those functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, including the following matters which specifically require a decision by the Strategic Planning Committee:

- minerals and waste planning;
- development concerning major energy and physical infrastructure proposals such as wind farms;
- planning applications involving more than 100 houses and/or more than 1,000 sq metres of commercial floorspace;
- planning applications involving less than 100 houses and/or less than 1,000 sq metres of commercial floorspace which raise significant strategic planning policy issues; and
- any other planning applications which represent a significant departure from the Development Plan.

Decisions involving formal enforcement action, when requiring Committee approval, will fall to be determined by Local Area Councils.

All applications are to be determined by the Chief Planning Officer in accordance with the powers set out in the internal scheme of delegation except for the following which fall to the Committee to determine:

- Applications submitted by or on behalf of elected members of the Council or by their spouses/partners;
- Applications involving land and/or premises in the ownership or under the control of elected members of the Council or their spouses/partners;
- Applications in which any senior officer\* of the Council has a personal and prejudicial interest;
- Determination of applications submitted by or on behalf of the Council (or by or on behalf of companies controlled by the Council); or of applications relating to land in which the Council (or company) has a significant interest (NB council to refuse such applications is delegated);
- Approval of applications where, in the opinion of the Relevant Officer, such an approval would constitute a departure from the approved Development Plan and would require a reference to the Secretary of State;
- Any application which an elected member of the Council requests should be considered by the Committee, provided the request is in writing, is received within 21 days of the application appearing on the weekly list, and is supported by bona fide planning reasons (which will be reported to the Committee together with the Councillor's name);
- Any application which the Relevant Officer considers should be determined by the Committee because of special planning issues or considerations it raises including significant local interest; and
- Determination of applications where there are contrary comments received within the consultation period given raising bona fide planning issues from statutory consultees as defined in National Planning Practice Guidance.

\*For the purposes of the Scheme of Delegation, Senior Officer is defined as Director or Head of Service (or equivalent title)

(b) Those functions prescribed by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as not being executive functions and not elsewhere allocated by this Constitution.

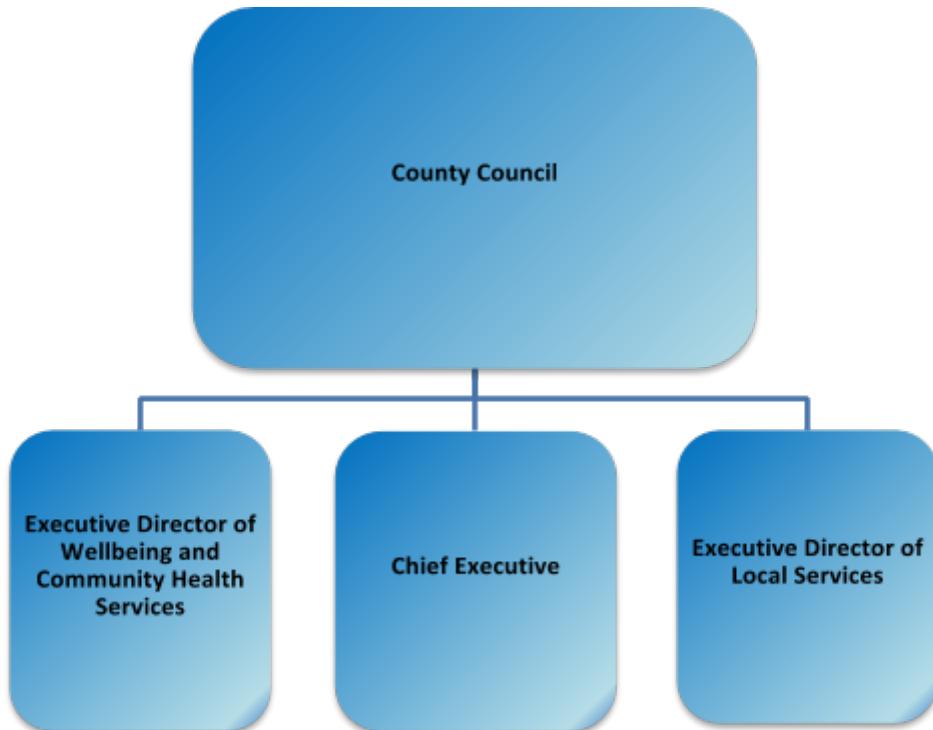


# **PART 4**

# **OFFICERS**

## **DELEGATION SCHEME SENIOR MANAGEMENT STRUCTURE AND EMPLOYMENT RULES**

## Management Board



## DELEGATIONS TO OFFICERS

This section sets out those functions which have been delegated to officers.

### 1. Powers of delegation

Non-executive functions are delegated to Officers from Council, Committees and Sub-Committees under section 101 of the Local Government Act 1972. In the case of licensing and gambling delegation is under section 10 of the Licensing Act 2003 and section 154 of the Gambling Act 2005

Executive functions are delegated to Officers by the Leader or from the Cabinet, Cabinet committees or individual Cabinet Members under section 15 of the Local Government Act 2000.

Section 13(10)(a) of the 2000 Act makes clear that any function which is the responsibility of the Cabinet may not be discharged by full Council

### 2. Basis of Delegation

Where the Council, a Committee or Sub-Committee, the Leader, Cabinet, a Cabinet Committee or an individual Cabinet Member has delegated a function to an Officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.

An Officer to whom a power is delegated may refer the matter to the Head of Paid Service, or to the person or body making the delegation, for their determination. It will be appropriate for the Officer so to refer a matter:

To the Head of Paid Service where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of various functions of the authority

To the person or body making the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Members to determine; or could, by its scale or complexity expose the Council to major corporate risk which cannot be contained within directorate budgets

In exercising any delegated powers, Officers should ensure that decisions are consistent with Council policy, within approved spending limits, and in the best interests of residents and the Council as a whole. Elected members should be informed/consulted as appropriate depending on the nature and sensitivity of the decision

### **3. Conflicts of Interest**

Every Officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the authority, and notifying the authority (including under section 117 of the Local Government Act 1972).

Where an Officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an Officer except with the prior approval of his/her line manager, the Monitoring Officer or the Head of Paid Service.

Where the Head of Paid Service is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the Monitoring Officer for all legal and administrative matters or by the Deputy Section 151 Officer for all financial matters.

Where an Executive Director is unable to act on a matter because of a conflict of interest, the Head of Paid Service shall discharge the matter him/herself or allocate the matter to another Officer.

Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.

Where the Monitoring Officer is unable to act on a matter under the Standards Committee Regulations 2008 in relation of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000

Where any other Officer is unable to act on a matter that Officer's line manager or the Head of Paid Service may arrange for another Officer to discharge the matter.

### **4. The Context for the Exercise of Functions**

The Head of Paid Service and Executive Directors are authorised to discharge all the functions of the authority within their areas of responsibility as defined below and subject to the General Conditions and Limitations set out below. Each Executive Director is required to agree with the Head of Paid Service an internal scheme of management for their service directorate.

## **5. General Conditions and Limitations**

In taking any decision, each Officer must ensure that they have acted in a considered, well informed and defensible manner which is in the best interests of the Council and its residents. The more significant the decision, the greater the obligation to demonstrate that appropriate consideration has been given to the way the decision was made.

As a general rule all decisions will need to be made with a full understanding of Council policy relating to the decision, an awareness of relevant legal obligations including equality requirements, and a clear assessment of the impact of the decision on those affected. Decisions will also need to be consistent with the Council's budget strategy and will need to be effectively risk assessed.

The obligation to ensure that these issues are properly understood rests with decision makers. Where doubt exists advice must be taken from those officers who are professionally qualified to give advice such as the Council's Monitoring Officer. Officers must not commit the Council to a course of action which will entail financial obligations beyond those approved by the Council.

Where the decision is politically sensitive or likely to affect significant numbers of residents, decision makers are under a general obligation to consult with those from whom the decision is delegated and ward members where appropriate. Where realistic choices exist and where good practice would suggest it to be appropriate public consultation should be undertaken after consulting with appropriate Members.

No Officer other than the Legal Services Manager shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Legal Services Manager.

The powers delegated to Officers shall not include the power to take a Key Decision, save that the Head of Paid Service and Executive Directors may take a Key Decision where the matter is so urgent that it is appropriate, for the protection of the interests of the authority or its area. For the purposes of this scheme, urgent shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well-being of an individual or that the interests of the Council may be compromised. These powers shall be exercised in accordance with Contract Procedures Rules.

This Scheme of Delegations is set out as far as possible, in terms of broad areas of responsibility rather than in terms of specific statutory powers. The Head of Paid Service shall be responsible for co-ordinating the discharge of the authority's functions between the various Officers.

The Head of Paid Service may allocate or re-allocate responsibility for functions between Officers as necessary for the effective discharge of those functions or to cover absence of particular Officers.

Where an Officer is going to be absent for a period of time, he/she or his/her line manager may re-allocate responsibility for that Officer's functions as necessary to ensure the effective discharge of those functions during the Officer's absence. Where a function is delegated to a Head of Service, it shall also be exercisable by the Chief Executive and Executive Directors. Where a function is delegated to an Executive Director it shall also be exercisable by the Head of Paid Service , except the functions of Monitoring Officer and Section 151 Officer and his/her deputy. Where a function is specifically delegated to a particular Officer, that function shall not be exercised by any other Officer except in accordance with this Scheme.

## **6. General Delegation to Head of Paid Service and Executive Directors Deputy Section 151 Officer and Legal Services Manager.**

Without prejudice to the generality of the foregoing the Head of Paid Service, Executive Directors and Deputy Section 151 Officer shall have the power:

- a) to take all lawful action consistent with overall Council policy to deliver agreed strategy plans and policy within their area of responsibility and within approved budgets, service plans, contract and financial procedural rules , the general obligation to act in the best interests of Residents and the Council and to achieve value for money. This shall include, but not exhaustively:
- b) to incur expenditure on the council's behalf within the sums approved by Council and to procure goods and services consistent with the Council's procurement policies
- c) to deal with invitation and acceptance of tenders within the limits set out in the Contracts Procedure Rules including:
  - I. submission of bids for funding in consultation with the relevant Cabinet Member where this does not imply an on-going commitment to the Council when the funding ends, requires match funding that cannot be met within Group budgets or could, by its scale or complexity expose the Council to major corporate risks which cannot be contained within Group budgets.
  - II. service or placing of any necessary statutory or other notices (other than those expressly reserved to a Council, Committee or Cabinet)
  - III. after consultation with the Legal Services Manager, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the authority
  - IV. the award of settlements arising from Ombudsman's recommendations under £10,000
- d) in consultation at all times with the Lead Human Resources Business Partner and in accordance with all relevant Human Resources policies and procedures to put in place staffing and management arrangements for the delivery of services which are consistent with the Council's strategic management arrangements and staffing policies
- e) to delegate further, in writing, all or any of their delegated functions to other officers to exercise in their own name.

Where decisions involve significant on-going financial commitments, legal obligations, changes to the way services are provided these will require Cabinet approval

The Legal Services Manager is authorised:

- a) to take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document
- b) to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary, in the view of the Legal Services Manager, to give effect to decisions of the authority or in any case where the Legal Services Manager considers that such action is necessary to protect the authority's interests
- c) to instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority
- d) to enter objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area.
- e) to act as the authority's Monitoring Officer under sections 5 and 5A, Local Government and Housing Act 1989

For the avoidance of doubt, anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the Head of Paid Service.

## **7. Recording, Implementing and Accounting for Decisions**

Each Officer is responsible for ensuring that decisions which they take are adequately recorded, and that the record of those decisions is available to other Officers, to Members and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment.

Every Officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.

Every Officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other Officers, Members and statutory regulators

## **8. Areas of Responsibility**

All matters not reserved to the Council, to the Cabinet, or to a Committee for decision are delegated to the appropriate Executive Director as well as the Head of Paid Service subject to the Conditions and Limitations above and the Contract and Finance Procedure Rules. Each Executive Director as well as the Head of Paid Service in making decisions under this scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements and dissemination of information both internally and externally to the Council

The areas of responsibility of each Executive Director as well as the Head of Paid Service shall be as follows, and shall include the areas of responsibility of each Officer within his/her service area or Group.

## **9. The Chief Executive**

The Chief Executive shall:

- o be Head of Paid Service
- o exercise corporate Council functions
- o incur expenditure and delegate responsibility to incur expenditure in the event of a civil emergency
- o in cases of urgency or emergency, take any decision on behalf of the Council (after consultation with the Leader)
- o for the purposes of the Local Government (Contracts) Act 1997, have authority with the Deputy Section 151 Officer, and Legal Services Manager to sign each certificate given under the Act
- o with a nominee of the Head of Corporate Services, to make decisions on employee terms and conditions, (including procedures for dismissal), except those relating to:
  - o Head of Paid Service, and Executive Directors posts
  - o changes to the Council's corporate pay grade structure

The Head of Paid Service will also be responsible for setting the strategic management arrangements for the Council and for the allocation of roles to those officers who directly report to the Head of Paid Service other than those which are statutorily prescribed.

### **The Chief Executive will also have service responsibilities for:**

- (a) The exercise of corporate Council functions in relation to finance services, revenues and benefits, including benefits fraud, the Council's fraud strategy and associated arrangements, debt recovery, treasury management, insurance and associated corporate risk management, internal audit and liaison with external audit, administration of the Local Government Pension Scheme and procurement.
- (b) The exercise of the scheme manager function for the Firefighters' Pension Scheme in consultation with the Chief Fire Officer.
- (c) the role of the Council's Chief Financial Officer under section 151 of the Local Government Act 1972
- (d) Strategic Human Resources & Organisational Development
- (e) Customer and Cultural Services
- (f) Leisure and Tourism
- (g) Information Services

- (h) Libraries
- (i) Legal and Democratic Services
- (j) Communications, Policy and Performance
- (k) Common land and village greens
- (l) Economic Development
- (m) All Housing functions
- (n) Strategic Estates Management
- (o) Development Services and the development of the sustainable community strategy
- (p) Performance Management arrangements throughout the Council
- (q) Efficient management of the Local Strategic Partnership and partnerships governance

## **10. Executive Director for Wellbeing and Community Health Services**

The Executive Director for Wellbeing and Community Health Services shall act as the statutory officer under section 18(1) of the Children's Act 2004 and will be responsible for all matters relating to the education of children and young people, for the safeguarding of vulnerable children and for promoting the general wellbeing of children and families and services including:

- (a) Children's Social Care
- (b) Children, Youth and Family Services
- (c) Schools Provision (inc. facilities management)
- (d) Corporate Performance and Resources

The Executive Director for Wellbeing and Community Health Services shall also act as the statutory officer for adult social services under section 6(A1) of the Local Authority Social Services Act 1970 as amended by section 18(1) of the Children Act, 2004 and will be responsible for

- (a) all social services functions of the council, as listed in Schedule 1 of the Local Authority Social Services Act 1970, which relate to adults over the age of 18 (and excluding functions relating to after care under the Children Act 1989). Including specifically the power to take on behalf of the Authority any decision that the Director judges to be appropriate or necessary about services to be provided to an individual or action to be taken in respect of an individual (including the use of any discretion provided for in national or local schemes of charges to service users, and assistance with legal costs of third parties), and all powers of the Authority under the Mental Health Act 1983 (as amended from time to time)

- (b) advice to the council on equality and diversity matters

The Executive Director for Wellbeing and Community Health Services will also have service responsibilities for public health including drug & alcohol action.

## **11. Executive Director of Local Services**

The service responsibilities of the Corporate Director of Local Services shall be:

- a) Highways and neighbourhood services
- b) Traffic management
- c) Waste management
- d) Facilities management (exc. Schools)
- e) Sustainable transport
- f) Flood and water management
- g) Coastal protection
- h) Fire & Rescue Service and Civil Contingency functions
- i) Public Protection, community safety and licensing

## **12. Deputy Section 151 Officer**

In the absence of the Section 151 Officer (including conflicts of interest) the service responsibilities of the Deputy Section 151 Officer shall be:

- (a) The exercise of corporate Council functions in relation to finance services, revenues and benefits, including benefits fraud, the Council's fraud strategy and associated arrangements, debt recovery, treasury management, insurance and associated corporate risk management, internal audit and liaison with external audit, administration of the Local Government Pension Scheme and procurement.
- (b) to be the Council's Chief Financial Officer under section 151 of the Local Government Act 1972

## **13. Detailed Scheme of Management**

Each Executive Director and/or Head of Service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department.

This internal scheme of management will be approved by the Head of Paid Service and reviewed annually.

## Part 2 - Statutory Functions which are allocated to Officers – Proper Officers

This section sets out those Officers who have been designated by the authority to discharge specified statutory functions

Legislation	Function	Proper Officer
Section 4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive Chief Executive
Sections 5 and 5A Local Government and Housing Act 1989	Monitoring Officer	Legal Services Manager
Section 151 LGA 1972	Chief Finance Officer	Chief Executive Chief Executive (Deputy – Head of Corporate Services)
Section 5 Representation of the People Act 1983	Returning Officer	Head of Paid Service
Section 8 Representation of the People Act 1983	Electoral Registration Officer	Head of Paid Service (Deputy – Services Manager - Democracy)
Section 6(A1) Local Authority Social Services Act 1970	Director of Adult Social Services	Executive Director for Wellbeing and Community Health Services
Section 18 Children Act 2004	Director of Children's Services	Corporate Director, of Children's Services
Section 72(1)(a) Weights and Measures Act 1985	Chief Inspector of Weights and Measures	Business and Consumer Protection Manager
Sch 1 - Civil Contingencies Act 2004	<b>Category 1 Responder</b>	Civil Contingencies Manager

The Council employs the following Proper or appropriate Officers:

Legislation	Function	Proper Officer
Local Government Act 1972		
Section 83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Head of Paid Services
Section 84(1)	Receipt of notice of resignation of elected Member	Head of Paid Services
Section 88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair	Head of Paid Services
Section 89(1)	Notice of casual vacancy	Head of Paid Services
Section 100A – 100H (except 100(D))	Admission of public (including press) to meetings	Head of Paid Services

Section 100(D)	Compile list of background papers for reports and make copies available for public inspection	Head of Paid Services
Section 115(2)	Receipt of money due from officers	Head of Paid Services
Section 146(1)(a)&(b)	Declarations and certificates with regard to transfer of securities	Section 151 Officer (Deputy – Head of Corporate Services)
Section 191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Lead Executive Director for Corporate Resources
Section 225	Deposit of documents	Head of Paid Services
Section 228(3)	Accounts for inspection by any member of the Council	Section 151 Officer or his/her Deputy
Section 229(5)	Certification of photographic copies of documents	Legal Services Manager
Section 234	Authentication of documents	Legal Services Manager
Section 238	Certification of byelaws	Legal Services Manager
Section 248	Officer who will keep the Roll of Freemen	Head of Paid Services
<b>Schedule 12</b>		
Para 4(2)(b)	Signing of summons to Council meeting	Head of Paid Services
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Head of Paid Services
<b>Schedule 14</b>		
Para 25	Certification of resolution concerning the Public Health Acts 1875 to 1925	Officer nominated under Section 73B National Health Service Act
<b>Local Government Act 1974</b>		
Section 30(5)	To give notice that copies of an Ombudsman's report are available	Head of Paid Services
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Head of Paid Service
<b>Local Authorities Cemeteries Order 1977</b>		
Regulation 10	To sign exclusive rights of burial	Executive Director of Local Services
<b>Representations of the People Act 1983</b>		
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Head of Paid Service
<b>Local Elections (Principal Areas) (England) Rules 2006</b>		
Schedule 2, Rule 53	Retention and public inspection of documents after an election	Head of Paid Service
<b>Local Government and Housing Act 1989</b>		
Section 2(4)	Recipient of the list of politically	Legal Services Manager

	restricted posts	
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
Regulation 8	For the purposes of the composition of committees and nominations to political Groups	Monitoring Officer
<b>Local Authorities (Members' Interests) Regulations 1992</b>		
Regulations 3,4,5 and 6	Functions relating to keeping a record of members' interests	Monitoring Officer
<b>Local Authorities (Standing Orders)(England) Regulations 2001</b>		
Schedule 1 Part 2	Notification of appointment or dismissal of officers	Head of Paid Service
<b>The Local Authorities (Cabinet Arrangements) Access to Information (England) Regulations 2000</b>		
Regulation 3	Recording of Cabinet decisions made at meetings of the Cabinet	Monitoring Officer
Regulation 5	Inspection of documents following Cabinet decisions	Monitoring Officer
Regulation 6	Inspection of background papers	Monitoring Officer
Regulation 9	Individual Cabinet decisions	Monitoring Officer
Regulation 11	Access to agenda and connected reports	Monitoring Officer
Regulation 12	Publicity in connection with key decisions	Monitoring Officer
Regulation 15	General exception relating to the Forward Plan	Monitoring Officer
Regulation 17	Members' rights of access to documents	Monitoring Officer
Regulation 21	Confidential/exempt information and exclusion of public from meetings	Monitoring Officer
<b>Building Act 1984</b>		
Section 93	Authentication of documents	Head of Public Protection
<b>Food Safety Act 1990</b>		
Section 49(3)(a)	Authentication of documents	Head of Public Protection
<b>Public Health (Control of Disease) Act 1984</b> [NB Repeal of sections 31-32 due to be brought into effect under s 130, Health and Social Care Act 2008]		
Section 31	Certification by officer of need for disinfection of premises	Head of Public Protection
Section 32	Certification by officer of need to remove person from infected house	Head of Public Protection
<b>Public Health Act 1936</b>		
Section 85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Head of Public Protection
<b>Public Health Act 1961</b>		
Section 37	Control of any verminous article	Head of Public Protection
<b>Public Health (Control of Disease) Act 1984</b> (As above repeal due to be brought into effect under s 130, Health and Social Care Act		

2008 – save for sections 48 and 59 below)		
Section 11	Receiving and dealing with notifications about cases of notifiable diseases and food poisoning	Head of Public Protection
Section 18	Obtaining information about cases of notifiable disease or food poisoning	Head of Public Protection
Section 20	Stopping of work to prevent spread of disease	Head of Public Protection
Section 21	Exclusion from school of a child liable to convey a notifiable disease	Head of Public Protection
Section 22	Requesting names and addresses of pupils attending a school or department of a school	Head of Public Protection
Section 36	Issuing certificates to obtain an order for and carrying out a medical examination of persons believed to be carrying a notifiable disease	Head of Public Protection
Section 40	Obtain a warrant to and carry out a medical examination of inmates of a common lodging house	Head of Public Protection
Section 42	Certifying a common lodging house to be free from infection	Head of Public Protection
Section 43	Certifying that the body of a person who dies in hospital from a notifiable disease shall not be moved except to be taken to a mortuary or immediately buried or cremated	Head of Public Protection
Section 48	Certifying that the retention of a body in a building would endanger health	Head of Public Protection
Section 59	Authentication of documents relating to matters within his/her responsibility	Head of Public Protection
National Assistance Act 1948		
Section 47	Removal to suitable premises of people in need of care and attention	Officer nominated under Section 73B National Health Service Act 2006
National Assistance (Amendment) Act 1951		
Section 1	Certification of the need for immediate action	Executive Director for Wellbeing and Community Health Services
Local Government Act 2000		
Section 21ZA	Scrutiny Officer	Democratic Services Manager
Registration Service Act 1953		
Section 6	Superintendent Registrar and	Service Manager

	Registrar of Births and Deaths	Registration Coronial & Development Services
Traffic Management Act 2004		
Section 17(2)	Role of Traffic Manager	Executive Director of Local Services
Section 4 & Schedule 2 (para 4) Criminal Justice and Immigration Act 2008	Responsible Officer	Court Services Team Manager & Case Managers
Fostering and Adoption Regs	Proper Officer	Executive Director of Welfare and Community Health Services Head of Safeguarding & Looked After Children Children's Services Manager
Section 73B National Health Service Act 2006	<b>Exercise of public health functions of local authorities</b>	Associate Director - Public Health or equivalent

## Officer Employment Procedure Rules

### 1. Recruitment and appointment

- (1) Declarations
  - (a) The Council will draw up a statement requiring any candidate for appointment as an officer 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; or of the partner of such persons.
  - (b) No candidate so related to a councillor, or an officer will be appointed without the approval of the relevant chief officer or an officer nominated by him/her.
- (2) Seeking support for appointment.
  - (a) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (b) No Councillor will seek support for any person for any appointment with the Council but a Councillor may give a reference for an applicant.

## **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (1) draw up a statement specifying:
  - (a) the duties of the officer concerned; and
  - (b) any qualifications or qualities to be sought in the person to be appointed;
- (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
- (3) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

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

- (1) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.
- (2) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

## **4. Appointment of Chief Officers and Deputy Chief Officers**

- (1) A committee or sub-committee of the Council will appoint Chief Officers and other posts as required under prevailing legislation. . That committee or sub-committee must include at least one member of the Cabinet.
- (2) An offer of employment as a Chief Officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

## **5. Other appointments**

- (1) Appointment of officers below Deputy Chief Officer and below (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors except where there are statutory provisions to the contrary.
- (2) Assistants to political groups. Appointment of an assistant to a political group shall

be made in accordance with the wishes of that political group.

## **6. Disciplinary action**

- (1) Suspension. The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. The Head of Paid Services may be suspended by the Leader following consultation with the Monitoring Officer. Other Chief Officers (including the Monitoring Officer and the Chief Finance Officer) may be suspended by the Head of Paid Service.
- (2) Independent person. No other disciplinary action may be taken in respect of the Head of Paid Services, the Monitoring Officer or the Chief Finance Officer except in accordance with a recommendation in a report carried out by an independent investigator appointed by the Council .
- (3) Councillors will not be involved in the disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.
- (4) The Head of Paid Service may take disciplinary action (except for dismissal) against any Chief Officer.

## **7. Dismissal**

Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

A decision to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, may only be taken a meeting of full Council. Before making a decision to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the full Council must take into account in particular:

- (a) any advice, views or recommendations of the Dismissal Advisory Committee
- (b) the conclusions of the Independent Investigation into the allegations against the officer concerned; and
- (c) the representations from the officer who is the subject of the proposed dismissal.

## **8. Chief Officers and Deputy Chief Officers**

For the purpose of these rules Chief Officers are the Head of Paid Service, and Executive Directors . Deputy Chief Officers are Directors, Associate Directors and Service Heads and the Chief Fire Officer.

## **9. Statutory provisions relating to senior officers**

The following rules apply as a requirement of The Local Authorities (Standing Orders) (England) Regulations 2001 and shall take precedence over any local rule whether in this Constitution or otherwise.

Head of Paid Service, Chief Finance Officer & Monitoring Officer

- (1) In paragraph 2, "chief finance officer", "council manager", "disciplinary action", "head of the council's paid service" and "monitoring officer", have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations.
- (2) No disciplinary action in respect of the head of the council's paid service (unless he is also a council manager of the council), its monitoring officer or its chief finance officer, except action described in paragraph 3, may be taken by the council, or by a committee, a sub-committee, a joint committee on which the council is represented or any other person acting on behalf of the council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- (3) The action mentioned in paragraph 2 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

Chief and Deputy Chief Officers

In this Part –

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Executive" and "Executive leader" have the same meaning as in Part II of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or

employment under the Council; and

"proper officer" means an officer appointed by the Council for the purposes of the provisions in this Part.

Subject to subparagraphs X and X, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the Council's paid service or by an officer nominated by him.

Subparagraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –

- (a) the officer designated as the head of the council's paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- .
- (1) Where a committee, sub-committee or officer 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 council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
  - (2) Where a committee or a sub-committee of the council is discharging, on behalf of the council, the function of the appointment or dismissal of any officer referred to in sections (a), (b), (c) or (d) of subparagraph 9.2.3, at least one member of the Cabinet must be a member of that committee or sub-committee
    - (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the council, the council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the council, that committee, sub-committee or officer, as the case may be.
    - (2) An offer of an appointment as an officer referred to in sections (a), (b), (c) or (d) of subparagraph 9.2.3 must not be made by the appointor until:

- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the proper officer has notified every member of the Cabinet or the council of:
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Cabinet to the proper officer; and
  - (c) either:
    - (i) the Executive Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
    - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Cabinet leader; or
    - (iii) the appointor is satisfied that any objection received from the Cabinet leader within that period is not material or is not well-founded.
- (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the council, the council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the council, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every member of the Cabinet or the council of:

- (i) the name of the person who the dismisor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismisor has notified to the proper officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the Cabinet leader on behalf of the Cabinet to the proper officer; and
- (c) either -
- (i) the Cabinet leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismisor that neither he nor any other member of the Cabinet has any objection to the dismissal;
  - (ii) the proper officer has notified the dismisor that no objection was received by him within that period from the Cabinet leader; or
  - (iii) the dismisor is satisfied that any objection received from the Cabinet leader within that period is not material or is not well-founded.

Nothing in subparagraph 9.2.2 shall prevent a person from serving as a member of any committee or sub-committee established by the council to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the council; or
- (b) a member of staff of the council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

# **PART 5**

## **Rules of Procedure**

### **Council**

### **The Cabinet**

### **Budget and Policy Framework**

### **Overview and Scrutiny Committees**

# CHAPTER 1

## Full Council Procedure Rules

### 1. Annual meeting of the Council

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

1.1 The annual meeting will:

- (1) elect a person to preside as Business Chair of the Council for the ensuing year;
- (2) elect a person to act as Deputy Business Chair of the Council for the ensuing year;
- (3) elect the Civic Head of the County Council for the ensuing year;
- (4) elect the Deputy Civic Head of the County Council for the ensuing year;
- (5) approve the minutes of the last meeting;
- (6) receive any announcements from the Business Chair, Leader and/or Head of the Paid Service;
- (7) receive any disclosures of members and officers interests;
- (8) elect the Leader who will advise council about the Cabinet appointments
- (9) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution), and the Chair and Vice Chair of all Committees;
- (10) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree as set out in Part 4 of this Constitution;

- (11) approve the diary of meetings of the Council and committees for the year; and
- (12) consider any business set out in the notice convening the meeting.

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

At the annual meeting, the council meeting will:

- (1) decide which committees to establish for the municipal year;
- (2) decide the size and terms of reference for those committees;
- (3) decide the allocation of seats to political groups in accordance with the political balance rules;
- (4) receive nominations of councillors to serve on each committee and those outside bodies filled by council ; and
- (5) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

#### 1.3 Duration of Appointments

Unless specified to the contrary, all appointments shall be for a period terminating at the next annual meeting of the Council

## 2. Ordinary meetings of full Council

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (1) elect a person to preside if the Business Chair is not present;
- (2) approve the minutes of the last meeting;
- (3) receive any disclosures of interest from members and officers;
- (4) receive any announcements from the Business Chair, Leader and/or Head of the Paid Service;
- (5) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- (6) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (7) consider motions; and

- (8) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.

The order of business will be set out in the summons or notice convening the meeting but can be changed during the meeting at the discretion of the Business Chair.

### **3. Extraordinary meetings**

#### **3.1 Calling extraordinary meetings**

Those listed below may request the Head of Paid Service to call Council meetings in addition to ordinary meetings:

- (1) the Council by resolution;
- (2) the Business Chair of the Council;
- (3) the monitoring officer;
- (4) the chief finance officer (Section 151 Officer, or his/her deputy), and
- (5) any five members of the Council if they have signed a requisition presented to the chair of the council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **4. Time and place of meetings**

The time and place of meetings will be determined by the Head of Paid Service and notified in the summons. For the avoidance of doubt the Head of Paid Service shall have the authority to cancel any meeting which he considers should not proceed provided he is satisfied that there is no or insufficient business to justify the meeting being held.

### **5. Notice of and summons to meetings**

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules of Procedure. At least five working days before a meeting, the Head of Paid Service will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **6. Chair of meeting**

The person presiding at the meeting may exercise any power or duty of the chair. Where these rules apply to committee and sub-committee meetings, references to the chair also

include the chair of committees and sub-committees.

## **7. Quorum**

The quorum of a meeting will be one quarter of the whole number of members. 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 he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. Duration of meeting**

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for three hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. Questions by members**

### **9.1 On reports of the Cabinet and committees**

A member of the Council may ask the Leader or Chairman 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 the Council.

### **9.2 Questions on notice at full Council**

Subject to Rule 9.4, a member of the Council may ask:

- (1) the Chair, and
- (2) a member of the Cabinet; or
- (3) the chair of any committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affects the area.

### **9.3 Questions on notice at committees and sub-committees subject to Rule 9.4**

A member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that committee or sub-committee.

### **9.4 Notice of questions**

A member may only ask a question under Rule 9.2 or 9.3 if either:

- (1) they have given at least three working days' notice in writing of the question to the Democratic Services Manager; or
- (2) the question relates to urgent matters, they have the consent of the chairman to whom the question is to be put and the content of the question is given to the Democratic Services Manager not less than two hours before the time of the meeting on the day of the meeting.
- (3) The Chairman will give reasons as to why a question is not considered urgent.
- (4) Democratic Services will circulate a copy of the question to all members 48 hours in advance of the meeting or as soon as it is received in the case of urgent business.
- (5) The number of questions asked by a member on any one occasion shall be at the discretion of the Chairman

#### 9.5 Response

An answer may take the form of:

- (1) a direct oral answer;
- (2) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (3) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner. A copy of any written reply will be attached to the minutes of the meeting and a copy published on the internet.

#### 9.6 Supplementary question

A member asking a question under Rule 9.2 or 9.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. Rule 9.5 will apply to the response to a supplementary question

### 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 any member, must be delivered to the Democratic Services Manager not later than noon on the ninth day before the date of the meeting. These will be entered in a book open to public inspection.

Motions must be signed by the mover and the seconder

#### 10.2 Motion set out in agenda

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

#### 10.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the area.

#### 10.4 Limits on Motions

There shall be a maximum of three motions on notice at each meeting, those to be taken, where the number received exceeds the maximum number permitted, to be determined by the order in which they were received unless a member giving notice of a motion which is to be otherwise taken states, in writing not later than noon on the ninth day before the date of the meeting, that they propose to move it to a later meeting or withdraw it.

### 11. Motions without notice

The following motions may be moved without notice:

- (1) to appoint a chair of the meeting at which the motion is moved;
- (2) in relation to the accuracy of the minutes;
- (3) to change the order of business in the agenda;
- (4) to refer something to an appropriate body or individual;
- (5) to appoint a committee or member arising from an item on the summons for the meeting;
- (6) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (7) to withdraw a motion;
- (8) to amend a motion;
- (9) to proceed to the next business;
- (10) that the question be now put;
- (11) to adjourn a debate;
- (12) to adjourn a meeting; that the meeting continue beyond three hours in duration
- (13) to suspend a particular council procedure rule;

- (14) to exclude the public and press in accordance with the Access to Information Rules of Procedure;
- (15) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (16) to give the consent of the Council where its consent is required by this Constitution.

## **12. Rules of debate**

### **12.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

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

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

### **12.3 Seconder's speech**

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

### **12.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed ten minutes without the consent of the chairman and no speech should normally be read except for speeches relating to the budget although notes may be referred to.

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

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

- (1) to speak once on an amendment moved by another member;
- (2) to move a further amendment if the motion has been amended since he/she last spoke;
- (3) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (4) in exercise of a right of reply;
- (5) on a point of order; and by way of personal explanation.

## 12.6 Amendments to motions

- (1) An amendment to a motion must be relevant to the motion and will either be:
  - (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words as long as the effect of (a) to (c) is not to negate the motion.
- (2) 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.
- (3) If an amendment is not carried, other amendments to the original motion may be moved.
- (4) 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.
- (5) After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 12.7 Alteration of motion

- (1) A member 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.
- (2) A member 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.
- (3) Only alterations which could be made as an amendment may be made.

## 12.8 Withdrawal of motion

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

## 12.9 Right of reply

- (1) The mover of a motion has a right to reply at the end of the debate on the motion.
- (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.
- (3) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 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:

- (1) to withdraw a motion;
- (2) to amend a motion;
- (3) to proceed to the next business;
- (4) that the question be now put;
- (5) to adjourn a debate;
- (6) to adjourn a meeting;
- (7) that the meeting continue beyond three hours in duration;
- (8) to exclude the public and press in accordance with the Access to Information Rules of Procedure; and
- (9) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

#### 12.11 Closure motions

- (1) A member may move, without comment, the following motions at the end of a speech of another member:
  - (a) to proceed to the next business;
  - (b) that the question be now put;
  - (c) to adjourn a debate; or
  - (d) to adjourn a meeting.
- (2) If a motion to proceed to next business is seconded and the chair 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.

- (3) If a motion that the question be now put is seconded and the chair 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.
- (4) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, 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 member may raise a point of order at any time. The chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law and not for information or any other purpose. The member must indicate the rule of law and the way in which he/she considers it has been broken. The ruling of the chair on the matter will be final.

#### 12.13 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the chair on the admissibility of a personal explanation will be final.

### 13. State of the area debate

#### 13.1 Calling of debate

The Leader and the Cabinet will call a state of the area debate annually on a date and in a form to be agreed with the Business Chair.

#### 13.2 Form of debate

The Leader will decide the form of debate following consultation with the Area Committee Chairs, and with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to, or during, the state of the area debate.

#### 13.3 Chairing of debate

The debate will be chaired by the Business Chair of Council.

#### 13.4 Results of debate

The results of the debate will be:

- (1) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (2) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

## **14. Previous decisions and motions**

### **14.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least nine members.

### **14.2 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 nine members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **15. Voting**

### **15.1 Majority**

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

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

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

### **15.3 Show of hands**

Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **15.4 Ballots**

The vote will take place by ballot if one fifth of the members present and entitled to vote at the meeting demand it. The chair will announce the numerical result of the ballot immediately the result is known.

#### **15.5 Recorded vote**

If one fifth of the members present and entitled to vote at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

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

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

#### **15.7 Voting on appointments**

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

#### **15.8 Voting at Budget decision meetings**

Pursuant to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014/165) immediately after any vote is taken at a budget decision meeting of an authority 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.

### **16. Minutes**

#### **16.1 Signing the minutes**

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

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

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is 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.

#### **16.3 Form of minutes**

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

## **17. 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. A record of officers present will also be included in the minutes.

## **18. Exclusion of public**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules of Procedure in Appendix 3 of this Constitution or Rule 21 (Disturbance by Public).

## **19. Members' conduct**

### **19.1 Standing to speak**

When a member speaks at full Council they must stand and address the meeting through the chair unless they have a disability which precludes them from standing. If more than one member stands, the chair will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

Officers if requested to speak must stand and address the meeting through the Chair.

### **19.2 Chair standing**

When the chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

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

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

### **19.4 Member to leave the meeting**

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

### **19.5 General disturbance**

If there is a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary.

## **20. Disturbance by public**

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

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

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

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

## **21. Suspension and amendment of Council Procedure Rules**

### **21.1 Suspension**

All of these Council Rules of Procedure except Rule 15.6 and 16.2 and as required by the law may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### **21.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **22. Application to committees and sub-committees**

All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 5–8, 10–13, 15–23 (but not Rule 20.1) apply to meetings of committees and sub-committees.

## **Procedure For Public Question Time**

## **23. Questions by the public**

### **23.1 General**

Members of the public may ask questions of members of the Cabinet before ordinary meetings of the Council, but such period of questioning shall be restricted to a maximum of 30 minutes except that the Chair shall have discretion to extend the period.

### **23.2 Order of questions**

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

#### 23.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Service Manager: Democratic Services no later than midday, five working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

#### 23.4 Number of questions

In order to allow the maximum public participation, at any one meeting no person may submit more than two questions.

#### 23.5 Scope of questions

The Democratic Services Manager may reject a question if it:

- (1) is not about a matter for which the Council has a responsibility or which affects the county;
- (2) is defamatory, frivolous or offensive;
- (3) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (4) requires the disclosure of confidential or exempt information; or
- (5) the cost of providing an answer is disproportionate.
- (6) relates to staffing or industrial relation matters;

The Council cannot accept any questions in relation to planning, licensing and other regulatory applications.

If the Chair is of the opinion that a question is one which for whatever reason, cannot properly be asked in an area meeting, he/she will disallow it and inform the resident of his/her decision.

#### 23.6 Record of questions

The Democratic Services Manager will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

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

### **23.7 Asking the question at the meeting**

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

### **23.8 Supplemental question**

**23.8.1** A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 23.5 above.

**23.8.2** The Chair may allow a person present at the meeting to submit further supplementary questions for answer at the particular meeting, if the allotted period in Rule 23.1 has not been exceeded and providing no other person is disadvantaged by allowing such extra questions.

### **23.9 Written answers**

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

### **23.10 Reference of question to the Cabinet or a committee**

Unless the Chair decides otherwise, no discussion will take place on any question, but any 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.

### **23.11 Reference of question to Area Committees**

The Democratic Services Manager shall have the authority to refer questions from the public on local issues directly to Area Committees.

## **CHAPTER 2**

# **Budget and Policy Framework Procedure Rules**

## **1. The framework for Cabinet decisions**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a policy or a budget framework is in place, it will be the responsibility of the Cabinet to implement it. These rules shall also apply to any plan or strategy (whether or not in the form of a draft) of which any part is to be submitted to the Secretary of State or any Minister of the Crown for approval.

## **2. Process for developing the framework**

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

- (1) Not less than six weeks before a plan/strategy/budget needs to be adopted, the Cabinet will publish initial proposals for the budget and policy framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Details of the Cabinet's consultation process shall be published at the Council's main offices. Any representations made to the Cabinet shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where an Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- (2) The Cabinet shall be obliged to consult the Area Committees on its budget proposals but not on policy matters.
- (3) The Cabinet's initial proposals shall be referred to the relevant Overview and Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Democratic Services Manager (the statutory Scrutiny Officer) who will forward them to the chair of the relevant Overview and Scrutiny Committee. If there is no such chair, a copy must be sent to every member of that committee. The Overview and Scrutiny Committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Cabinet. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The Overview and Scrutiny Committee shall have four weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.
- (4) Having considered the report of the Overview and Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting

them to the council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.

- (5) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from any relevant Overview and Scrutiny Committee.
- (6) The Council's decision will be publicised in accordance with the Constitution and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- (7) If the Leader objects to the decision of the Council, he/she shall give written notice to the Head of Paid Service to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Head of Paid Service shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (8) The Council meeting must take place within five working days of the receipt of the written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (9) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Section 4, and shall be implemented immediately.
- (10) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the budget and policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5, 6 and 7 of these Budget and Policy Framework Rules of Procedure and the Finance and Contract Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.
- (11) Notwithstanding the above clauses, the following shall apply to the formulation of the annual budget. These special provisions are required in the light of
  - the financial settlement for local authorities being usually announced by Central Government in mid-December each year
  - other legislative requirements
  - the Christmas and New Year break.

The Cabinet shall endeavour to formulate and publish detailed budget proposals by the end of January with a view to the Council agreeing the budget for the forthcoming municipal year by the end of February.

The Cabinet may refer all or any aspects of the budget proposals to any of the Overview and Scrutiny Committees for advice and may require any such advice to be given within a timescale specified by the Cabinet.

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

- (1) Subject to the provisions of paragraph 5 (virement) the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.

The Monitoring Officer and (Section 151 Officer, or his/her deputy) will decide on what is contrary to the Budget and Policy Framework.

- (2) If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and the (151 officer or his/her deputy) as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

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

- (1) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (a) if it is not practical to convene a quorate meeting of the full Council; and
  - (b) if the chair of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council

and the chair of the relevant Overview and Scrutiny 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 chair of a relevant Overview and Scrutiny Committee the consent of the chair of the Council, and in the absence of both, the vice-chair will be sufficient.

- (2) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (3) For the avoidance of doubt urgency provisions apply to both revenue and capital expenditure.

## **5. In-year changes**

- (1) The Cabinet may, in exceptional circumstances take a decision to approve a proposal that is not wholly in accordance with the budget approved by the full council where:
  - (a) a proposal is fully funded from external sources; or
  - (b) a permanent change to the budget is proposed and compensating savings at least equal to the proposed additional expenditure have been identified; or
  - (c) a proposal to incur expenditure does not create an ongoing commitment to the base budget, subject to the aggregate limit set out in paragraph (2) below; or
  - (d) a proposal to incur expenditure creates an ongoing commitment to the base budget, subject to the aggregate limit set out in paragraph (2) below.
- (2) Any decision taken by the Cabinet under the provisions of (1)(c) and (1)(d) shall not exceed an amount in excess of an aggregate sum of £300,000 and £500,000 respectively in any financial year.
- (3) Following the decision, the Cabinet shall provide a full report to the next available Council meeting explaining the decisions and giving reasons for making the decisions.
- (4) In no circumstances shall a decision taken under the provisions of (1)(c) and (1)(d) above result in a reduction in the County Fund balance to a level below that advised by the Section 151 Officer.

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

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive

functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (1) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (2) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (3) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (4) which relate to policy in relation to schools, where the proposed change is agreed by the Schools Forum.

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

- (1) Where an Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and the Section 151 Officer.
- (2) In respect of functions which are the responsibility of the Cabinet, the monitoring officer's report and the Section 151 Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the monitoring officer and Section 151 Officer's report and to prepare a report to Council in the event that the monitoring officer or the Section 151 Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the monitoring officer and the Section 151 Officer conclude that the decision was not a departure.
- (3) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and the Corporate Director of Finance is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny 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 five days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and the Section 151 Officer. The Council may either:
  - (a) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (b) amend the council's financial regulations 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
- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the monitoring officer and Section 151 Officer.

## **8. Special Rules relating to Budget Formulation**

- 8.1 Subject to paragraph 8.5, where, before mid-February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year -
- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,
- and following consideration of those estimates or amounts the council has any objections to them, it must take the action set out in paragraph 8.2.
- 8.2 Before the council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 9.1(a), or sets the Council Tax, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- 8.3 Where the council gives instructions in accordance with paragraph 8.2, 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 on behalf of the Cabinet within which the Leader may –
- (a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

- (b) inform the Council of any disagreement that the Cabinet has with any of the council's objections and the Cabinet's reasons for any such disagreement.
- 8.4 When the period specified by the Council, referred to in paragraph 8.3, has expired, the council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 9.1(a), or setting the Council Tax take into account –
- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the Cabinet's reasons for those amendments;
  - (c) any disagreement that the Cabinet has with any of the Council's objections; and
  - (d) the Cabinet's reasons for that disagreement,
  - (e) which the Leader submitted to the Council, or informed the council of, within the period specified.
- 8.5 Paragraphs 8.1 to 8.4 shall not apply in relation to –
- (a) calculations or substitute calculations which a council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (b) amounts stated in the Council Tax issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## CHAPTER 3

# Cabinet Procedure Rules

## 1. How does the Cabinet operate?

### 1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions may be set out in the Cabinet arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Cabinet functions to be discharged by:

- (1) the Cabinet as a whole;
- (2) a committee of the Cabinet;
- (3) an individual member of the Cabinet;
- (4) an officer;
- (5) an area committee;
- (6) joint arrangements; or
- (7) another local council.

### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (1) the extent of any council delegated to Cabinet members individually, including details of the limitation on their council;
- (2) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- (3) the nature and extent of any delegation of executive functions to area committees, any other council or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year, and

- (4) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of executive functions

- (1) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (2) Unless the Council directs otherwise, if the Council delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (3) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (4) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### 1.4 The Council's scheme of delegation and executive functions

- (1) Subject to (2) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. Council cannot amend the Cabinet's scheme of delegation.
- (2) If the Leader is able to decide whether to delegate executive functions, he/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Paid Service and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Head of Paid Service will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (3) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chairman.

### 1.5 Conflicts of Interest

- (1) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.
- (2) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.

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

1.6 Cabinet meetings – when and where

The Cabinet will meet at least ten times per year 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.

1.7 Meetings of the Cabinet.

The Access to Information Rules of Procedure in Appendix 3 of this Constitution set out the requirements covering public and private meetings. Other than the legal requirements, consideration should also be given to any principles of decision-making set out in Article 13 of this Constitution.

1.8 Quorum

The quorum for a meeting of the Cabinet, or a committee of it, shall be three, being any two members of the Cabinet, together with the Leader or the Deputy Leader.

1.9 How are decisions to be taken by the Cabinet?

- (1) Cabinet 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 Rules of Procedure Appendix 3 of the Constitution.
- (2) Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. How are Cabinet meetings conducted?

2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence the Deputy Leader will preside and in his/her absence then a person appointed to do so by those present shall preside.

2.2 Who may attend?

- (1) all members of the Cabinet and the Business Chair;
- (2) such officers as are specified in Rule 21 of the Access to Information Rules of Procedure, and

- (3) Members of the press and public provided unless an agenda item is confidential
- (3) such other persons as the Leader or the Cabinet may invite to attend

## 2.3 What business?

At each meeting of the Cabinet the following business will be conducted:

- (1) consideration of the minutes of the last meeting;
- (2) declarations of interest, if any;
- (3) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Rules of Procedure or the Budget and Policy Framework Rules of Procedure set out in Part 5 of this Constitution;
- (4) consideration of reports and recommendations from Overview and Scrutiny Committees; and
- (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 Rules of Procedure set out in Appendix 3 of this Constitution.

## 2.4 Consultation

All reports to the Cabinet from any member of the Cabinet 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 Overview and 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 appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Cabinet agenda?

- 2.5.1 The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Head of Paid Service will comply with the Leader's requests in this respect.
- 2.5.2 Any member of the Cabinet may require the Head of Paid Service 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 Head of Paid Service will comply.
- 2.5.3 The Head of Paid Service will make sure that an item is placed on the

agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to two such items on any one agenda.

- 2.5.4 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny Committees. However there may only be up to three such items per Cabinet meeting.
- 2.5.5 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting. However, there may only be up to two such items per Cabinet meeting.
- 2.5.6 The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer (or his/her deputy) may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer (or his/her deputy) 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 meeting be convened at which the matter will be considered.

## CHAPTER 4

### Overview and Scrutiny Rules of Procedure

#### 1. What will be the number and arrangements for Overview and Scrutiny Committees?

The Council will have the Overview and Scrutiny Committees set out in Article 7 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

#### 2. Who may sit on Overview and Scrutiny Committees?

All councillors except members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

#### 3. Education representatives

Each relevant Overview and Scrutiny Committee/sub-committee dealing with education matters shall include in its membership the following voting representatives:

- (1) one Church of England diocese representative;
- (2) one Roman Catholic diocese representative;
- (3) two parent governor representatives; and
- (4) one representative of other faiths or denominations.

A relevant Overview and Scrutiny Committee/sub-committee in this paragraph is an Overview and Scrutiny Committee or sub-committee of a local education council, where the committee or sub-committee's functions relate wholly or in part to any education functions which are the responsibility of the council's Cabinet. If the Overview and Scrutiny Committee/sub-committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### 4. Meetings of the Overview and Scrutiny Committees

There shall be at least 6 ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the chair of the relevant Overview and Scrutiny

Committee, by at least one quarter of the committee entitled to vote or by the Council's Scrutiny Officer if he/she considers it necessary or appropriate.

## **5. Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in this Constitution.

## **6. Who chairs Overview and Scrutiny Committee meetings?**

The Chairs of the Overview & Scrutiny Committee are appointed by the Council

## **7. Work programme**

The Overview and Scrutiny Committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

## **8. Agenda items**

- (1) Any member of an Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Council's Scrutiny Officer 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 Council's Scrutiny Officer will ensure that it is considered for inclusion on the next available agenda. The Business Chair may consult with the member concerned, if it should appear to him/her that the matter might be better dealt with by another Overview and Scrutiny Committee, or should be dealt with by another of the Council's Committees. .
- (2) Any five members of the Council may give written notice to the Council's Scrutiny Officer that they wish an item to be included on the agenda on an Overview and Scrutiny Committee provided that they are not members of that committee. If the Council's Scrutiny Officer receives such a notification then he/she will include the item on the first available agenda of that Overview and Scrutiny Committee for consideration, subject to the Business Chair being satisfied that the issue has not already been allocated to another Committee's work programme. If the matter has already been allocated to a Committee, the Business Chair will consult with the respective chairmen to agree how it should be dealt with. .
- (3) The Overview and 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 Overview and 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 Overview and Scrutiny Committee within

one month of receiving it.

## **9. Policy review and development**

- (1) The role of the Overview and 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 Rules of Procedure.
- (2) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, Overview and Scrutiny Committee or sub-committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (3) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10. Reports from Overview and Scrutiny Committee**

- (1) Once it has formed recommendations on proposals for development, the relevant Overview and Scrutiny Committee will prepare a formal report and submit it to the Deputy Head of Paid Service for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (2) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (3) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at the next available meeting after its submission to the Deputy Head of Paid Service within two months of that date.

## **11. Making sure that Overview and Scrutiny reports are considered by the Cabinet**

- (1) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Business Chair who will consider the report, refer it back for further work or will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy

framework. If the Business Chair refers the matter to Council, he will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will have 8 weeks in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the overview and scrutiny proposals.

- (2) Where an Overview and Scrutiny Committee or Sub-Committee submits a report for consideration by the Cabinet in relation to a matter where the Leader or Council has delegated decision making power to another individual member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Head of Paid Service and the Leader. If the member with delegated decision making power does not accept the recommendations of the report then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 8 weeks of receiving it. A copy of his/her written response to it shall be sent to the Head of Paid Service and he/she will attend a future meeting to respond.
- (3) The Overview and 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 an Overview and 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 Overview and Scrutiny Committee members to documents**

- (1) In addition to their rights as councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Rules of Procedure in Appendix 3 of this Constitution.
- (2) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

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

- (1) Any Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet committee, the head of paid service and/or any senior officer to attend before it to explain in relation to matters

within their remit:

- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performance and it is the duty of those persons to attend if so required.
- (2) Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Democratic Services Manager. The Democratic Services Manager shall inform the member or officer in writing giving at least three working days' 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.
- (3) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

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

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

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

Call-in should only be used in exceptional circumstances. These are where members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the decision making person or body did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (1) When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or a Local Area Council, or under joint arrangements, the decision notice shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All Members will be sent a copy of the notice within the same timescale, by the person responsible for publishing the decision.
- (2) That notice will bear the date on which it is published and will specify that the decision will come into force, and may be implemented, unless the powers of call-in have been exercised or a period of five days from the date of the notice

have elapsed whichever is the sooner.

- (3) If during that period, the Scrutiny Officer receives a valid call-in notice, he/she, in consultation with the Business Chair or Deputy Business Chair, or in their absence, the Monitoring Officer, shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within 5 days of the decision to call-in.

The call in notice must be signed by either;

- the Chairman or Vice-Chairman of the relevant scrutiny committee or
- five signatories (comprising non-executive members or, in the case of education matters, any non-Council members with voting rights in respect of the matter in question).

A clear reason for the call-in must be stated on the notice, with due regard to the principles of decision making contained in Article 13.02 and the completed form must be forwarded to the Scrutiny Officer by noon on the fifth day following the publication of the relevant decision notice.

- (4) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
- (5) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the period, in which the Overview and Scrutiny Committee should have been held whichever is the earlier.
- (6) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- (7) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date

of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

- (8) Where an executive decision has been taken by a Local Area Council, then the right of call-in shall extend to any other Local Area Council which resolves to refer a decision which has been made but not implemented to a relevant Overview and Scrutiny Committee for consideration in accordance with these provisions. A Local Area Council may only request the Scrutiny Officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of a relevant Overview and Scrutiny Committee.

#### Exceptions

- (9) In order to ensure that call-in is not abused, nor causes unreasonable delay, the Council may resolve to place limits on the number or categories of matters which may be the subject of call in.

#### Call-In and Urgency

- (10) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Business Chair of the council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Business Chairman, the Deputy Business Chair consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (11) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## 16. The Party Whip

- (1) When considering any matter in respect of which a member of an Overview and Scrutiny Committee is subject to a party whip the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.
- (2) For these purposes "party whip" shall mean "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner".

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

- (1) Overview and Scrutiny Committees and sub-committees shall consider the following business:
  - (a) minutes of the last meeting;
  - (b) declarations of interest (including whipping declarations);
  - (c) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (d) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
  - (e) the business otherwise set out on the agenda for the meeting.
- (2) Where the Overview and 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:
  - (a) 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;
  - (b) that those assisting the committee by giving evidence be treated with respect and courtesy, and
  - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (3) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission the Cabinet and/or Council as appropriate and shall make its report and findings public.



# **PART 6**

## **Codes and Protocols**

### **Chapter 1**

# **Code of Conduct for Elected Members**

The Northumberland County Council (“the Council”) has adopted the following code which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council with a right to vote but is not one of its elected members.

The code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

## **Part 1 - General Conduct**

1. You must treat others with respect, including Council officers and other elected members.
2. You must not bully any person (including specifically any Council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You 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 4 to this Code.
7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council’s reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.

8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - (a) You have the consent of a person authorised to give it; or
  - (b) You are required by law to do so; or
  - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - (d) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process except to the extent you 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.

## Part 2 - Registration of interests

11. You must register in the Council's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means:
  - (a) any Disclosable Pecuniary Interest as set out in Annex 2;  
or
  - (b) any other interest held by you as set out in Annex 3.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
- any change taking place in your registerable personal interests.

(Note: 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)

12. Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

## Part 3 – Non-registerable interests

13. You will have a non-registerable personal interest when you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or

ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well-being or financial position, or the wellbeing or financial position of a person described in paragraph 14 to a greater extent than most inhabitants of the area affected by the decision.

14. The persons referred to in paragraph 13 are:

- (a) a member of your family;
- (b) any person with whom you have a close association;
- (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

- (a) "A member of your family" means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
- (b) You have a "close association" with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

15. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a non-registerable interest in an item of business (as defined in paragraph 13) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

#### Part 4 - Non-Participation in Council Business

16. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that the criteria set out in paragraph 17 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must :

- (a) Declare that fact to the meeting;
- (b) Not participate (or further participate) in any discussion of the matter at the meeting; and
- (c) Not participate in any vote (or further vote) taken on the matter at the meeting;
- (d) Leave the room whilst the matter is being discussed.

17. The criteria for the purposes of paragraph 16 are that:

- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; and either
- (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 14 or in any of your register entries; or

- (c) The matter concerns a request for any permission, licence, consent or registration sought by yourself or any of the persons referred to in paragraph 14 or in any of your register entries.
18. If a Council function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by in that way which meets the criteria set out in paragraph 17, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraph 16 to 18 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

On a written request made to the Council's Monitoring Officer, the Council may grant a member a dispensation in respect of any interest described in that request which may relate to any registerable or non registerable interest. Requests for dispensations will be considered and, where appropriate, granted only in relation to the grounds and conditions set out in the section 33 of the Localism Act 2011.

19. Paragraphs 16 to 18 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Council:
- (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
  - (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;
  - (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
  - (d) an allowance, payment or indemnity given to members;
  - (e) any ceremonial honour given to members; and
  - (f) setting council tax or a precept under the Local Government Finance Act 1992.

## Annex 1 to Code of Conduct

### Nolan's Seven Principles of Public Life

#### Preamble

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services.

All public office-holders are both servants of the public and stewards of public resources.

The principles also have application to all those in other sectors delivering public services.

#### 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.

Disclosable Pecuniary Interests

(as defined by Regulations made by the Secretary of State under section 30 Localism Act 2011)

**Please Note: The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) yourself, or (b) your spouse or civil partner, or (c) a person with whom you are living as husband and wife, or (d) a person with whom you are living as if you were civil partners (all of whom are referred to as “relevant persons”):-**

**Employment, office, trade, profession or vocation** - Any employment, office, trade, profession or vocation carried on for profit or gain.

**Sponsorship** - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards your 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) 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** - Any beneficial interest in land which is within the area of the Council.

**Licences** - Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

**Corporate tenancies** - Any tenancy where (to your knowledge)—

- (a) the landlord is the Council; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

**Securities** - Any beneficial interest in securities of a body where—

- (a) that body (to your 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

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

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

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

*"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.

## Chapter 2

### Guidance for Elected Members and Officers Dealing with Planning Matters

The term 'Planning Committee' in this Code is used in a generic sense and applies to any Council Committee, sub-committee or Cabinet when considering a planning matter. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

#### 1. Introduction

- 1.1 The Localism Act 2011 requires the Council to promote and maintain high standards of conduct by members of the authority. This has resulted in the preparation of a Council Code of Conduct for Councillors. This guidance deals specifically with the role of elected members and officers in planning matters.
- 1.2 The guidance sets out practices and procedures that members and officers of the Council should follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.3 The guidance is largely based upon the Code of Conduct, the Royal Town Planning Institute's Code of Professional Conduct, together with advice issued by the Commission for Local Administration in England, central government, the National Planning Forum, and the Local Government Association.
- 1.4 The existence of the guidance and the Council's commitment to follow it are intended to establish and improve upon the trust between the Council as decision maker and those who seek decisions from it or are otherwise affected by those decisions. Failure to follow this guidance without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers.

#### 2. The need for guidance on the conduct of Planning Matters

- 2.1 Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It affects land and property interests, including the financial value of land and the quality of their settings. It is also often highly contentious because decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the

system which invites public opinion before taking decisions. It has a quasi-judicial element which particularly distinguishes planning from most other local government business. It is important, therefore, that the process is characterized by open and transparent decision making.

- 2.2 The Council is committed to open and transparent decision making as set out in Article 13 of the Constitution. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.

### **3. The role and conduct of Members and Officers**

- 3.1 Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 3.2 The Council's Code of Conduct (as supplemented by guidance from the Standards Committee and the Standards Board for England) provides guidance and standards for members. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section). Of particular relevance to members dealing with planning matters is the requirement that a member must not use his/her position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage.
- 3.3 Whilst members have a special duty to their electoral division constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to members involved in making a planning decision. The basis of the planning system is the balancing of individual proposals with wider public interests. Much is often at stake and opposing views are often strongly held by those involved.
- 3.4 Members' decisions must not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, balance out all of the material issues and influences in the light of their own individual assessments and their collective policies and strategies.
- 3.5 Whilst members should take account of all views expressed, they must not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 3.6 Members shall follow the advice in the Council's Code of Conduct about accepting gifts and hospitality. Whilst there are no hard and fast rules about the acceptance or refusal of hospitality or tokens of goodwill, members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Members are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government.

- 3.7 Officers shall follow the guidance on their standards of conduct as set out in the Council's Employees Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 3.8 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because a council, its members or other officers, have prevailed upon the officer to put forward his or her professional view as something other than it really is.
- 3.9 The Council endorses the statement in the RTPI code that, "RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions", and extends it to apply to all officers in the council advising on planning matters.
- 3.10 The Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. No senior officer shall have the power to overrule the professional advice of the head of the planning service.
- 3.11 Members who are required to take decisions on planning matters must undertake initial training in the planning process. Further regular training sessions should be attended so that members can be updated on changes to legislation or procedures.

#### **4. Declaration of Interests**

- 4.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on members in respect of the registration and disclosure of their interests and the consequences for the members' participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously.
- 4.2 Where a member has a personal interest (which includes any disclosable pecuniary interest) in the matter being considered, he or she must always declare it unless the interest is already entered in the Council's Register of Members' interests. Where the personal interest is a prejudicial one i.e. "...if the interest is one which a member of the public with knowledge of the relevant facts would reasonably think it so significant that it is likely to prejudice the member's judgement of the public interest", then the member must declare that fact to the meeting not participate in any discussion or vote on the matter and must leave the room whilst the matter is being discussed.
- 4.3 If a member, in advance of the decision-making meeting, takes a firm or closed view on the planning matter, either in public or private, they would not be able to demonstrate that, all the relevant facts and arguments had been taken into

account. They would have fettered their discretion. The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered. A member who has declared an opinion on the merits of the proposal prior to this stage might place the Council in danger of judicial review. Care should be taken if opinions are expressed to ensure that the member demonstrates at the time of giving any opinion that they have not closed their mind to the consideration of further evidence and debate prior to taking a decision in the matter at the committee meeting. If a member does close his or her mind to the merits of a planning matter in advance of making a decision at the committee meeting they must take no part in the discussion of the proposal or the decision by the committee on that matter.

- 4.5 The above advice is relevant where, for example, a member of the planning committee is also a member of an Area Committee which may be consulted on a planning application. If a member of a planning committee expresses a firm or closed views on a planning application at the Area Committee meeting then that member should not participate at the planning committee meeting when the decision is made. If the member simply notes the debate at the Area Committee but takes no part in it, other than perhaps to seek clarification, then they could take part in the decision making meeting. The Area Committee minutes must record that position. A member of the Area Committee who is also a member of a planning committee must not present the views of the Area Committee to the planning committee as this may give the appearance of the member having prejudged the issue. The important point to bear in mind is that in order to act impartially in making decisions on planning applications, members of the planning committee must not pre-judge an application prior to the decision making meeting when all the facts are available.
- 4.6 Serving members, or their relatives or partners, who submit, or act as agents for people pursuing, a planning matter within the Council must play no part in the decision-making process for that proposal. Members who have been appointed to or otherwise serve on trusts established by the Council may have a conflict of interests in an application which may require them to declare an interest. In such a case the councillor's duty as a trustee must take precedence.
- 4.7 In some circumstances a county councillor may ask a fellow councillor to represent the interests of the electors. This can occur when a councillor has a personal and prejudicial interest (e.g. the application is made by a member of their family) and should take no part in the decision making process. In such circumstances references in this guidance to "the local county councillor" shall be read as references to the fellow county councillor.
- 4.8 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Such proposals shall be considered in the same way as those by other developers. Where members of the planning committee are also members of the Cabinet with responsibility for promoting the development, they must consider whether they are so committed to that particular development that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached.

- 4.9 Officers must always act impartially. An officer who believes he or she may be seen to have a personal interest in a planning matter shall declare it at the earliest opportunity, so advise the Director of Local Services or the Head of Paid Service and have no further involvement in the processing or consideration of that matter.

## 5. Lobbying of and by Members

- 5.1 Lobbying is a legitimate part of the political and planning process. Those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a planning committee. However, reacting to lobbying can lead to the impartiality of a member being called into question and require that member to declare an interest.
- 5.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a member is in a position to make a balanced judgement on the merits of the case. The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 5.3 A planning committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee members shall take care not to commit themselves to vote for or against a proposal before a decision is to be taken. To do so, without all the relevant information and views, would be unfair and prejudicial. Members should make clear that they reserve their final decision on a proposal until the committee meeting.
- 5.4 A planning committee member who represents an electoral division affected by an application is in a particularly sensitive position if it is a controversial matter around which a lot of lobbying takes place. If the member responds to lobbying by deciding to go public in support of a particular outcome, then that member would have prejudiced his or her position in terms of demonstrating that they could impartially weigh the arguments presented at the committee meeting. The proper course of action is therefore for such a member to declare an interest and not vote or decide on the matter and to leave the room.
- 5.5 Members of the planning committees shall not organise support for or opposition to a proposal (without having first made it clear that they will not be participating in the decision), lobby other members or put pressure on officers for a particular recommendation.
- 5.6 Members of a planning committee must be free to vote or decide as they consider appropriate on the individual merits of planning matters. Political group meetings prior to the Committee meeting shall not be used to decide how members should be instructed to vote.

## **6. Pre- and Post-Application Discussions and Negotiations**

- 6.1 Discussions between an applicant and a planning council, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged as best practice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process.
- 6.2 Members need to preserve their role as impartial decision-makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when members are involved, it should be part of a structured arrangement in the presence of at least one senior planning officer.
- 6.3 Members may receive information from, and give information to, applicants and members of the public but, to safeguard their impartiality; they must maintain a clear distinction between receiving information and negotiating. Any information received by members should normally be provided to the officers dealing with the application.
- 6.4 Pre- or post-application discussions or negotiations by officers shall be conducted in accordance with the following guidelines.
  - (i) It must always be made clear at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are those of the officer only.
  - (ii) Advice should be consistent and based upon the Local Development Framework or its equivalent and material considerations. There should be no significant difference of interpretation of planning policies between planning officers.
  - (iii) A written note will be made of the meeting and, if appropriate, a follow-up letter sent. Two or more officers should, wherever possible, attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 6.5 Members must avoid indicating the likely decision on an application or otherwise committing the council during contact with applicants or objectors.

## **7. Officer Reports to Committee**

- 7.1 Officers' written reports to committee shall be accurate and provide all relevant information. They should include the substance of objections and the views of people who have been consulted, a clear exposition of the Local Development Framework or its equivalent and any other material considerations, a reasoned assessment of the proposal, and a justified written recommendation.
- 7.2 Oral reports (except to present and update a report) should be extremely rare and

carefully minuted when they do occur.

- 7.3 If the report's recommendation is contrary to the provisions of the Local Development Framework or its equivalent the material considerations which justify this must be clearly stated.

## 8. Public Speaking at Planning (Development Control) Committee Meetings

- 8.1 The principle of whether or not public speaking should be allowed at planning committee is a matter for each local council to decide. However, the Nolan Committee recommended that there should be opportunities for applicants and objectors, and other interested parties to make presentations at planning committee.
- 8.2 Speaking by the public at committee meetings shall be conducted in accordance with the following procedures and the Council's Area Planning Committee and the Planning and Environment and Rights of Way Committee Public Speaking Protocol.

In this section "Local Councillor" means the councillor for the unitary council in whose electoral division the proposal or development is sited.

### Who is allowed to speak?

Applicants/agents and any third party (including town and Parish Councils) who have submitted written comments on an application may speak at the Committee. Speaking offers the opportunity to clarify points raised in the written representations.

Such representations should normally be made prior to the end of the period neighbour notification/site notices, but those making written representations outside this period but prior to the publication of the Committee report will be allowed to address the Committee. A local Councillor who has a Code of Conduct interest in relation to the application which would otherwise mean that they would have to withdraw from the meeting cannot speak as a local Councillor and must withdraw unless they have the benefit of a dispensation. In the event that a local Councillor has to withdraw from the meeting in such circumstances another member nominated by the local Councillor so affected may speak in place of that local Councillor.

Those entitled to speak can nominate anyone to speak on their behalf.

If a Local Councillor is also a member of the Planning Committee but chooses to speak as Local Councillor then they can take no part in the determination of that application.

### How much time will be allocated for speaking?

Five minutes for

- objector(s)
- local Councillor and/or parish/town council
- applicant/supporter(s)

### How many people can speak?

- Normally only one person in support and one person in opposition will be expected to speak
- If there is more than one person wishing to speak, and a spokesperson cannot be nominated, the five minute time slot must be divided between the speakers.

In exceptional cases, for example, where there is an exceptional degree of public interest in a particular application or otherwise where it is considered appropriate to do so in all the circumstances in the interests of transparency and openness this procedure may be varied at the discretion of the Committee Chairman. In such circumstances all categories of speaker will be afforded the same opportunities to address the Committee.

### How to register to speak at committee

- The agent (or in the absence of an agent the applicant), and all third parties who have submitted written comments will be sent notification of their right to request to speak at Committee at least 5 working days prior to the Committee at which the application is to be considered.
- The relevant Local Councillor(s) will be informed by e mail at least 5 working days prior to the Committee of the applications in their ward which are to be considered and of their right to request to speak at the Committee.
- Those who wish to speak, including the Local Councillor(s) and the agent/applicant, must notify Democratic Services before 12 noon the day before Committee. Only those registering their request in accordance with this requirement will normally be allowed to speak.
- This request must be in person or via telephone or e-mail to Democratic Services. Names and contact details of all those who ask to speak will be publicly available from Democratic Services.
- If more than one objector or supporter requests to speak they will be able to request details of others wishing to speak in order to arrange a spokesperson or to divide the time. They should inform the Committee Administrator of any arrangements made.
- Requests to speak can be withdrawn at any time.

## 9. Committee Site Visits

- 9.1 A site visit by members of a Planning Committee may be held where a proposal is contentious or particularly complex and the impact is difficult to visualise or assess from the plans and supporting information. A request by the parish council or local member for a site visit will normally be acceded to, provided the application is contentious or there is a substantial issue that needs to be seen first-hand.
- 9.2 Site visits will be organised in accordance with the following procedures:

- (i) The relevant planning committee will authorise members to attend the site visit.
- (ii) The Head of Paid Service will invite parish council to site visits in respect of planning applications determined by the County Council. Where the proposal would have a significant direct impact upon an adjacent parish, national park or county, they too will be invited. Invited councils and authorities may send the number of representatives they wish.
- (iii) Representatives from other councils and authorities will not be invited to site visits arising from strategic planning consultations. The County Council may seek a formal meeting with the other local council or National Park Council where the views of the two Authorities are likely to differ.
- (iv) The Head of Paid Service will invite the local county councillor to all site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, the adjacent local county councillor will be invited.
- (v) In appropriate cases, the Head of Paid Service will invite the applicant to the site visit. The role of the applicant shall be to secure access to the site in accordance with Health and Safety considerations and to answer questions on factual matters but otherwise should not participate in discussions.
- (vi) In appropriate cases, and with the applicant's consent, the Chief Planning Officer shall invite objectors (or their selected spokesperson) and other interested parties to the site visit. Such persons will only be permitted to speak at the site visit for the purpose of answering questions on factual matters.
- (vii) In appropriate cases representatives of the media shall be allowed to make recordings immediately before the formal start of a site visit (this shall also apply to public meetings).
- (viii) On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will describe the application and outline the relevant policies and planning considerations. The Chairman will then invite other relevant parties to speak on matters of fact. The Chair will bring the site visit to a close and inform those attending of when the application is likely to be determined.

## **10. Public Meetings**

- 10.1 A public meeting may be held where a proposal results in a significant number of representations from local citizens or groups.
- 10.2 Public meetings will be organised in accordance with the following procedures.

- (i) The planning committee will authorise members (including relevant local county councillors) to attend the public meeting.
- (ii) The Head of Paid Service will advertise the public meeting by site notices and, if appropriate, by a notice in a local newspaper.
- (iii) The Chief Planning Officer will notify the applicant and all who have made representations on the application of the public meeting.
- (iv) Accessible venues will be used and reasonable adjustments made to allow disabled people to participate in proceedings as and when necessary.
- (iv) The Chair shall begin the public meeting by explaining the purpose and procedures so that all are aware that it provides an opportunity for the application to be explained and for the public to ask questions or make known their views. The planning officer will describe the application and outline the relevant policies and planning considerations. The Chair will then invite questions or statements from the public to be answered either by the County Council officers or, if appropriate, the applicants. The Chair will bring the public meeting to a close and inform those attending of when the application is likely to be determined.

## **11. Training and Review of Decisions**

- 11.1 The need for all members of the planning committee to receive training in the planning system and on the issues set out in the Code of Conduct is stressed in the advice issued by the Committee on Standards in Public Life and the Local Government Association. The Head of Development Services will organise training for all members of the planning committee on a regular basis.
- 11.2 The Audit Commission's Report, Building in Quality, also recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision making and help with reviews of planning policy. The Chief Planning Officer will organise on a regular basis a review of the quality of its decisions, either by undertaking selected visits or by some other visual means for members of the planning committee, local County Council members and their advisers.

## **12. Collateral Agreements**

- 12.1 Where a permission is agreed by the County Council subject to the conclusion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 or under the Highways Act 1980 in order to secure legitimate planning or highway interests which can only be secured by such means, a clear statement will be given to the planning committee as to the principles upon which the Obligation/Agreement will be concluded.

## **13. Community Benefits**

- 13.1 A developer may be advised of the County Council's policies and procedures in respect of community benefits or may, on his own initiative, seek to make some payment in money or in kind to ameliorate some adverse effect of a development on a locality. Such a payment would be offered and considered having regard to the scale and impact of the development proposed and the degree to which disbenefits can be mitigated by modifications to the proposals or planning conditions.
- 13.2 The County Council has established arrangements to deal with the issue of community benefits which separate the handling of the planning application from the negotiations of such benefits. Members of the planning committee should not normally take part in or seek to influence the course of any negotiations relating to community benefits with any prospective developer. The results of any negotiations with a developer will normally be reported to a planning committee as part of the full report leading to a decision on the application. A member, including a local member, may need to consider declaring an interest at that stage if he has been involved or influential in the community benefits negotiations or has an interest in the outcome of the negotiations.

## Chapter 3

# GUIDANCE FOR ELECTED MEMBERS DEALING WITH LICENSING MATTERS

### 1. Introduction

- 1.1 This guidance sets out principles to assist members in dealing with those matters that fall within the remit of the Licensing Committee. It applies to all members of the Council who may become involved in these matters and also contains special advice for members of the Licensing Committee.
- 1.2 The guidance supports (but does not form part of) the Code of Conduct for Members of Northumberland Council, which members must observe at all times. The Code of Conduct for Members avoids reference to specific functions of the Council, such as licensing, but has direct relevance to members' conduct in relation to their involvement in the licensing process. Members are therefore recommended to consider carefully the provisions of both the Code of Conduct for Members, and this guidance, in relation to their involvement in licensing matters.
- 1.3 The Council must act fairly and reasonably in all its dealings. Licensing matters in particular can sometimes raise difficult issues. Because the grant or variation of a licence can have a substantial effect on the success or failure of an applicant's business, applicants may try to put pressure on decision makers. Similar pressures may be exerted by objectors. Also, licensing issues can be emotive because they affect individuals' quality of life. A disappointed applicant or objector can all too easily form the belief that he or she lost because a member had been subjected to undue influence. It is important, therefore, that the Council is open and transparent in its decision-making on licensing matters.
- 1.4 Councillors who are responsible for making licensing decisions should take account of the needs and interests of the local community but this must be in the context of the four Licensing Objectives (prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm) and the Licensing Council's Licensing Policy Statement. Councillors must also maintain impartiality and the appearance of impartiality.
- 1.5 Any investigation by the Local Government Ombudsman into a complaint of maladministration against the Council as a licensing body or any internal investigation of complaints under the Complaints Procedure, would be likely to include consideration of whether this guidance was observed by members.

### 2. Key principles

- 2.1 There are two key principles to follow. The first is that the Licensing Committee (or a Sub-Committee of the Licensing Committee) will determine each case before it on its merits. It will consider
  - relevant representations presented to it by interested parties or responsible authorities

- the promotion of the four licensing objectives
- guidance issued by central Government
- the Licensing Council's Statement of Licensing Policy

2.2 Members must

- place due weight on all the facts and arguments, avoiding pre-conceived ideas and pre-determined approaches and giving full consideration to all parties;
- not take irrelevant or improper considerations into account (this includes considerations which are not relevant to the Licensing Objectives or Statement of Licensing Policy);
- have sound reasons for their decision

The grounds for the decision must be made clear. Local opposition to, or support for, an application is not in itself a ground for refusing or granting it, unless that opposition or support is founded on valid reasons in terms of the Licensing Objectives or Licensing Policy Statement.

- 2.3 The Licensing Officer or the relevant Legal Officers are available to give advice, prior to or at Committee meetings, on what might constitute valid grounds for granting or refusing applications.
- 2.4 The second principle is that the Council must avoid maladministration. This generally refers to the process by which the decision is taken (and how that process appears to the outside world) rather than the decision itself. It covers such things as failure to be impartial and failure to consider all the facts. For the individual member, this means being cautious in dealings with applicants and people making representations, so that both sides are dealt with fairly. Members must not appear to have been unduly influenced or to have a closed mind. It is also vital to observe the Members' Code of Conduct as a breach of the Code can amount to maladministration.
- 2.5 An applicant who is aggrieved by the Licensing Committee's decision may appeal to the Magistrates' Court. In addition, if a person believes that the Licensing Committee has not acted reasonably, he/she can apply to the High Court for judicial review. This could mean that the Court overturns the decision and possibly awards substantial damages and costs against the Council.
- 2.6 Allegations of maladministration are investigated by the Local Government Ombudsman. If she finds that maladministration has occurred, the Council will be required to publish her finding and may also be asked to compensate the complainant. A finding of maladministration can be made against the Council even where the actions giving rise to that finding are those of a single member.

**3. What this means for members**

- 3.1 The following guidelines apply to all members. They are intended to translate these principles into practical advice, and to help members deal with a range of situations that may arise.

- (i) You should always think carefully about how you deal with anyone who approaches you about a licence application. This may be an applicant, an objector, a supporter or someone simply requiring information about an application. It is always open to you to refer the person to the Licensing Officer or the appropriate member of his staff, and you would be well-advised to do this if you feel that anyone is trying to put you under undue pressure or influence you unfairly. In particular, you should not allow yourself to be pressured into giving an 'instant opinion' on the application.
  - (ii) You should be particularly careful in dealing with any approaches you may personally receive from applicants. They may attempt to put pressure on you in order to secure some expression of commitment. Again, members should always refer the person concerned to the Licensing Officer. If you feel that the approach was inappropriate or improper, you should raise the matter with the Licensing Officer or the Head of Paid Service
- You should not accept gifts or hospitality from applicants or objectors in connection with your membership of the Committee as this might reasonably be interpreted as likely to influence your judgement. In addition, all Members are reminded of their obligation under the Code of Conduct for Members regarding registration of gifts and hospitality over the value of £50.
- (iii) Nevertheless, as a councillor you are the representative, indeed the champion, of your community, and there will be times when you feel you must represent the community's views on a particular application. The Licensing Committee will normally allow ward councillors to make representations at the Committee hearing on applications affecting their ward, provided they observe the Committee's procedures on giving notice. However this will not apply if you are personally affected by the application; in that case you will have a personal and prejudicial interest in the matter and may not make representations at the hearing, nor even attend it. (You may however ask someone to represent you).
  - (iv) If you are a member of the Licensing Committee, you should not close your mind to the outcome of an application before it is considered by the Committee, or give the impression that you have done so, even though you may hold strong views about it. You should bear in mind that your colleagues who are not members of the Committee will be better placed to undertake this role. Similarly, if the question arises of writing letters of objection (or support) to the Licensing Officer it would be more appropriate if these came from colleagues who are not on the Committee.
  - (v) Members are not in a position to give instructions to officers about any application. Only the Licensing Committee can do that. For the same reason, until a formal decision is taken, any views you may express in discussion with other parties are personal and not the Committee's and you should make this clear. In addition, Members are reminded of their obligation under paragraph 3 of the Code of Conduct, which requires them "not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of the Council". In particular, members must not put Council employees under pressure to handle a licensing application in a particular way.

- (vi) Members must also avoid putting undue pressure on members of the Licensing Committee, particularly those members who have been selected to hear a case in which the member concerned may be interested. For example, it would be wrong to seek to obtain a commitment as to how a member might vote.
- (vii) Members should also avoid entering any premises or site in connection with an application. However, they may sometimes be asked by constituents to visit them in their homes, and on these occasions the question of a licence application (or objection or support) may be raised. You should be cautious about giving any commitment in these circumstances. Apart from anything else, you may only have heard one side of the story.

#### At the Licensing Committee

- 3.2 There are some specific rules which you must observe when you are considering applications at a hearing of the Licensing Committee or a Licensing Sub-Committee:
  - (i) You must avoid predetermination – that is, making up your mind about an application before the hearing, or giving the impression that you have made your mind up. You must listen to all the arguments for and against the application and weigh them up carefully before reaching your decision.
  - (ii) You should consider whether any statement that you may have made could give the impression that you are not coming to the hearing with an open mind. Have you, for example, spoken out against adding to the number of licensed premises in the street or area in which the application that you are about to hear is located? if so, there is a risk of challenge on the grounds of bias and you should consider withdrawing from the hearing so that another member of the Licensing Committee can take your place.
  - (iii) It follows from this that you must not base your decision on any discussion that may have taken place in a political group meeting. To do so would imply that you have not come to the hearing with an open mind, and that you were influenced by group discipline rather than the merits of the case. The Ombudsman has found maladministration in cases where members have been influenced by political group decisions in deciding planning applications, and the same principles apply to licence applications.
  - (iv) Make sure that you are not swayed by arguments which are not directly related to the merits of the application. For example, you should not vote against or for an application just because you are opposed to or support the aims of the organisation that is applying. Also, it may sometimes happen that views expressed at the Committee meeting by applicants, objectors, or people who are in favour are not matters which the Committee can properly take into account. The officers will advise on this.
  - (v) You should also make sure that your reasons for arriving at a decision are clearly expressed and understood by your colleagues. Furthermore, your reasons must be valid in terms of the Licensing Objectives and the Statement of Licensing Policy and you should seek advice on this if you are not sure. Reasons for the Sub-Committee's decision will need to be recorded.

- (vi) You must comply with the requirements of the law, and the Members' Code of Conduct on disclosure of interests. In particular, if you have a personal and prejudicial interest in an application, you must not take part in the hearing; you must declare the interest and withdraw from the meeting room. You may not remain in the meeting room, and you cannot represent the applicants or objectors at the hearing, or express any views on the matter at the hearing.
- (vii) If you are aware that an application in which you have a personal and prejudicial interest is coming up for a hearing, you should notify Committee Services so that you are not selected for the Sub-Committee which will consider the application.

Even if you consider that your interest in an application is personal but not prejudicial you should not participate as a Sub-Committee member in the hearing of the application because of the risk that your impartiality could be challenged. Examples of situations where you should not participate include

- where you have prominently supported the development of a particular Council facility (such as a Leisure Centre) in respect of which the application is made
- where you are a member of an outside body which is applying for a licence, whether or not you were appointed to that body by the Council.

While these situations may not strictly speaking amount to personal and prejudicial interests in terms of the Code of Conduct, they could nevertheless give rise to an appearance of bias.

The Legal Services Manager is available to give advice.

#### **4. Conclusion**

- 4.1 Observing this protocol will go a long way towards achieving the Council's goal of an open and inclusive licensing system. It will increase public confidence; reduce the likelihood of Council decisions being challenged; and help councillors in dealing with what may be difficult situations.

The purpose of the protocol is to ensure that justice is not only done but is seen to be done

## **Chapter 4**

### **PROTOCOL ON MEMBER/OFFICER RELATIONS**

#### **1.0 Introduction and Principles**

- 1.1 The objectives of this Protocol are to guide Members<sup>2</sup> and officers of the Council<sup>3</sup> in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Given the variety and complexity of relations between members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.
- 1.7 The provisions of the Protocol are to be interpreted in accordance and in conjunction with the general principles applying to the conduct of Members as set out by Order of the Secretary of State. These are the principles of selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership.

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<sup>2</sup> Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

<sup>3</sup> Unless the context indicates otherwise, references to the term Council include the Cabinet, overview and scrutiny committees, and other committees and sub-committees

## **2.0 The role of Members**

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the council's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Cabinet, Scrutiny Committees, Area Committees or other committees and sub-committees of the Council.
- 2.7 Members serving on 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.
- 2.8 Members serving on Area Committees work to promote and improve the economic, social and environmental well-being of the Committee's area. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.
- 2.9 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Cabinet.
- 2.10 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12 Members are not authorised to instruct officers other than through the formal decision making process. This does not, however, prevent requests for the provision of stationery and other computer consumables in respect of council duties.
- 2.13 Members are not authorised to initiate or certify financial transactions, or to enter into a

contract on behalf of the Council.

- 2.14 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
- 2.15 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
- 2.16 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules.

### **3.0 The role of officers**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all political groups and non-aligned members. They must always act to the best of their abilities in the best interests of the council as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

### **4.0 The relationship: general points**

- 4.1 Members are elected by, and officers are servants of the public and Members and

officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of the Council.

- 4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor XX/Chair in the public arena, save where circumstances clearly indicate that a level of informality is appropriate.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate. In this respect members attention is drawn to the protocol on press relations which is available from the Communications Team.
- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:
  - avoid personal attacks on, or abuse of, the officer at all times,

- ensure that any criticism is well founded and constructive,
  - never make a criticism in public, and
  - take up the concern with the officer's Corporate Director or Head of Service depending upon the seniority of the officer concerned. Complaints about the Head of Service should be referred to the Leader of the Council privately.
- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Corporate Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Head of Paid Service who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance is meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in this paragraph is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Committee except in relation to Council functions. A Scrutiny Committee may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision forms and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has not been properly treated with respect and courtesy by a Member or has been bullied<sup>4</sup> by a Member, s/he should raise the matter with his/her Corporate Director, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Corporate Director, will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Standards Committee considering the complaint.
- 4.12 If a member has a complaint about an officer s/he should approach the relevant service head in the first instance. If a matter relates to a service head the relevant corporate director should be contacted. Similarly the Head of Paid Service and/or the Head of Paid Service will consider complaints about corporate directors.

## 5.0 The relationship: decision making

- 5.1 The Cabinet arrangements adopted by the Council in December 2001 provide for scheme of delegation. The details of this scheme are set out in Part 3 of the Constitution and in separate sub delegation schemes.

<sup>4</sup> Bullying is prohibited by the Members Code of Conduct Part 1 section 2. Guidance from the former Standards Board for England defines bullying as "Offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health." Further guidance on the meaning of bullying is available in the Code of Conduct - Guide for Members – May 2007.

5.2 Both Members and officers have responsibility for decision making within the scheme of delegation for both Council and executive functions.

## **6.0 The relationship: officer support to members: general points**

- 6.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and Members should avoid inappropriate involvement in such matters.
- 6.2 Officers will provide support to both the Cabinet and all Members in their respective roles.
- 6.3 The respective roles and responsibilities of Members and Officers in relation to employment issues are set out in the Officer Employment Procedure Rules.

If participating in the appointment of officers, Members should:

- remember that the sole criterion is merit<sup>5</sup>;
- never canvass support for a particular candidate;
- not take part where one of the candidates is a close friend or relative;
- not be influenced by personal preferences; and
- not favour a candidate by giving him/her information not available to the other candidates.

- 6.4 A Member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Member has had a working relationship.
- 6.5 Certain statutory officers – the Chief Executive as Head of Paid Service, the Monitoring Officer and the Section 151<sup>6</sup> Officer or his/her deputy – have specific roles. These are addressed in the Constitution. The roles need to be understood and respected by all Members.

The following key principles reflect the way in which the officer corps generally relates to Members:

- all officers are employed by, and accountable to the Council as a whole;
- they have a duty to implement the properly authorised decisions of the Council;
- support from officers is needed for all the Council's functions including Full Council, Scrutiny Committees, the Cabinet, Regulatory Committees, individual Members representing their communities etc;
- day-to-day managerial and operational decisions remain the responsibility of the Head of Paid Service and other officers;
- Officers will be provided with training and development to help them support the various Member roles effectively and to understand the structures.

- 6.6 On occasion, a decision may be reached which authorises named officers to take action following consultation with a Member or Members. The Member or Members may offer his/her views or advice to the officer who must take them into account. The Member or

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<sup>5</sup> (other than in the case of political assistants where political consideration may apply)

<sup>6</sup> S151 Local Government Act 1972

Members must not apply inappropriate pressure on the officer. The decision remains the responsibility of the officer him/herself. It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.

- 6.7 Finally, it must be remembered that Officers are accountable to a Corporate Director. That is, officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of council they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 6.8 Whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever council they have been given by their Corporate Director. Where appropriate, officers should make a Member aware of the limits of the Officer's council and explain that the matter would have to be referred to the Corporate Director.
- 6.9 Officers will do their best to give timely responses to Members' enquiries. Officers' work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
- 6.10 Members will endeavour to give timely responses to enquiries from officers<sup>7</sup>.
- 6.11 An officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward Member.
- 6.12 Members and officers should respect each other's free (i.e. non-Council) time.

## **7.0 The relationship: officer support to members and party groups**

- 7.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 7.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. It is also particularly important in a council with no overall control that officers' conduct their discussions with different political groups in confidence.
- 7.3 The support provided by officers can take many forms with often the need for informal engagement at senior officer level. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council,

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<sup>7</sup> See further paragraph 17 in respect of correspondence.

such support is available to all party groups.

Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:

- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
- party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- the presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.

- 7.4 Special care needs to be exercised whenever officers are requested to provide information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not be able to give the same level of advice as they would to a Members only meeting nor give advice to such meetings.
- 7.5 Officers have the right to refuse a request to attend a party group and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
- 7.6 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.7 An officer who is not a Chief Officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
- 7.8 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 7.9 No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 7.10 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to

another party group or to any other Members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

In relation to budget proposals:

- (a) the controlling political group shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the group or until published in advance of Committee/Council meetings, whichever is the earlier; and
- (b) the opposition groups shall also be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

- 7.11 It must not be assumed by any party group or Member that any officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 7.12 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Head of Paid Service who will discuss them with the relevant group leader(s).

## **8.0 Officer support to committees and sub-committees**

- 8.1 The appropriate senior officers will offer to arrange regular informal meetings with chairs of committees and sub-committees.
- 8.2 Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
- 8.3 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

## **9.0 Officer support to the Cabinet<sup>8</sup>**

- 9.1 It is clearly important that there should be a close working relationship between Cabinet Members and the officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and other party groups.
- 9.2 Whilst Cabinet Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Corporate Director or other senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional

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<sup>8</sup> References to the term *Executive* refers to the Leader and Executive.

judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Cabinet Member and a Corporate Director in this area should be referred to the Head of Paid Service for resolution in conjunction with the Leader of the Council.

The Cabinet and its Members have wide ranging leadership roles. They will:

- lead the community planning process and the search for efficiency and effectiveness, with input and advice from Scrutiny Committees, area committees and any other persons as appropriate;
- lead the preparation of the Council's policies and budget;
- take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
- be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

- 9.3 Cabinet members will take decisions in accordance with the Constitution and will not otherwise direct officers. Senior officers will be responsible for instructing officers to implement the Cabinet's decisions.
- 9.4 Officers will make arrangements for briefing Members of the Cabinet about business within their remit. Senior officers and Cabinet Members shall agree mutually convenient methods of regular contact.
- 9.5 Officers work for and serve the Council as a whole. Nevertheless, as the majority of functions are the responsibility of the Cabinet, it is likely that in practice many officers will be working to the Cabinet for most of their time. The Cabinet must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly providing advice and assistance to the Cabinet, their political neutrality is not compromised. Equally, opposition parties must also respect this neutrality/impartiality and the fact that officers work to the ruling administration.
- 9.6 In organising support for the Cabinet, there is a potential for tension between Corporate Directors and Cabinet Members with portfolios. All Members and officers need to be constantly aware of the possibility of such tensions arising and both officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

## **10.0 The relationship: officer and scrutiny committees**

- 10.1 Scrutiny Committees have both a Scrutiny role and a Policy Development and Review role.
- 10.2 In exercising the right to call-in a decision of the Cabinet, Members of Scrutiny Committees must seek the Monitoring Officer's advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.
- 10.3 Provisions relating to the attendance of officers at a Scrutiny Committee are set out in the Scrutiny Committee Procedure Rules,

- 10.4 Members should not normally expect junior officers to give evidence. All requests should be made to Chief Officers in the first instance.
- 10.5 When making requests for officer attendance, Scrutiny Committee Members shall have regard to the workload of officers.
- 10.6 It is recognised that officers required to appear before a Scrutiny Committee may often be those who have advised the Cabinet which is controlled by the ruling administration.
- 10.7 Officers should be prepared to justify advice given to the Council, the Cabinet, or other committees and sub-committees even when the advice was not accepted.
- 10.8 In giving evidence, officers must not be asked to give political views.
- 10.9 Officers should respect Members in the way they respond to Members' questions.
- 10.10 Members should not question officers in a way which could be interpreted as harassment or bullying<sup>9</sup>.

Scrutiny proceedings must not be used to question the capability or competence of officers. Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of officers.

Officers and Members should be aware of the following government guidance relating to Scrutiny Committees, and specifically their scrutiny role:

- Officers' evidence should so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- Officers may explain: what the policies are; the justification and objectives of those policies as the Cabinet sees them; the extent to which those objectives may have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- Officers may, and in many cases should, be asked to explain and justify advice they have given to Members of the Cabinet prior to a decision being taken and they should also be asked to explain and justify decisions they themselves have taken under delegations from the Cabinet.
- As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Cabinet's policies and actions should always be consistent with the requirement for officers to be politically impartial.

- 10.11 In connection with the Scrutiny Committees policy development and review role, Officers

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<sup>9</sup> See footnote 6

may reasonably be expected to advise on the effects which would arise out of the adoption of alternative policy options. Any advice on the development of policies should be consistent with the requirement for officers to be politically impartial.

- 10.12 It is not a Scrutiny Committee's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on behalf of a Scrutiny Committee. This is the Head of Paid Service's function alone in relation to officers and the Monitoring Officer's and the Standards Committee's functions as regards the conduct of Members.
- 10.13 Scrutiny Committee's questioning should be directed towards establishing the facts about what occurred in the making of decisions or implementing Council policies, and not towards the allocation of criticism or blame. A Scrutiny Committee may recommend (but not require) the Head of Paid Service to institute a formal inquiry for this purpose.
- 10.14 The Scrutiny Procedure Rules set out general principles relating to all Scrutiny witnesses, including notification requirements. If questioning should stray substantially outside the matters that the Committee had previously indicated, the Chair should consider whether an adjournment may need to be considered to enable officers to provide the required information. Questioning should not stray outside any Terms of Reference agreed for an Inquiry.
- 10.15 In relation to complaints brought by an individual (Members, officers, or members of the public) about decisions affecting them individually, a Scrutiny Committee must not act as an alternative to normal appeals procedures, whether internal, such as the Corporate Complaints procedure, or external, such as the Local Government Ombudsman, or an appeal to a Court. A Scrutiny Committees should not normally pass judgements on the merits of such a decision.
- 10.16 The Scrutiny Section provides the Scrutiny Committees with professional and administrative help. The Council's Corporate Directors remain responsible for providing specialised professional advice and should advise the relevant scrutiny committee of reasons where they would not wish to provide such services.

## **11.0 The relationship, officer support to area committees**

- 11.1 Officers who present reports to Area Committees may copy the report to such of the other Area Committees as he or she thinks fit if he or she is of the view that the report would be relevant to those Committees.
- 11.2 Area Committees may request that report authors attend meetings. When doing so they should have regard to the workload of the officer in question.
- 11.3 All questions addressed to officers attending Area Committees shall be addressed through the Chair of the Committee. Officers should not be questioned in such a way as

could be interpreted as harassment or bullying<sup>10</sup>. Neither should questions be asked which seek to address the capability or competence of officers. Committee chairs should ensure that any questions relate to the report and not wider issues.

- 11.4 Officers should respect Members in the way they respond to Members questions. If unable to provide a direct response to a question at an Area Committee meeting the officer shall respond in writing to the Committee Chair as soon as he is able.
- 11.5 From time to time additional meetings are convened by Members in respect of local matters. Whilst these meetings are not always meetings of the Area Committee officers will provide appropriate support to these meetings where resources permit. Members should therefore ensure that appropriate notice is given of all such meetings.
- 11.6 When convening meetings in relation to local matters care should be taken to distinguish between party group meetings and area meetings.

## **12.0 The relationship, officer support to regulatory panels<sup>11</sup>**

- 12.1 At the request of a chair of a regulatory committee, a briefing shall be arranged prior to a meeting of the committee.
- 12.2 The relevant Corporate Director is responsible for determining the agenda for a formally convened meeting of a regulatory committee, in consultation with the chair of the committee.
- 12.3 Members and officers need to be aware of additional Codes and Protocols which may refer to their specific area, such as the Code of Practice for Councillors responsible for determining Planning applications.

## **13.0 Council Chair and officers**

- 13.1 Officers will respect the position of Council Chair and provide appropriate support. This, however, is a two way process and the Chair should not place unrealistic demands on officers.

## **14.0 Members and officers on outside bodies**

- 14.1 Members and officers serving on outside bodies will treat one another professionally and with respect.

Members and officers should be aware of their role on any outside body to which they are appointed. In particular they should be aware of whether they are appointed:-

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<sup>10</sup> See footnote 6

<sup>11</sup> For the purposes of this Protocol only, any reference to “Regulatory Committee” includes a reference to the Planning Committees, Licensing & Regulatory Committee, the Licensing Committee and its sub-committees

- As a representative of the Council
- As a ward Member, representing the local community
- As a group Member, or
- In their individual capacity

and that they are sufficiently briefed before attending a meeting with the purpose of promoting the interests of the county. Members will also be requested to give feedback on proceedings.

14.2 Where Members and officers are appointed to an outside body as a representative of the Council they should ensure that they are aware of the Council's position in relation to matters within the body's remit.

14.2.1 The appointee should seek to abide by the Council's position in relation to that matter <sup>12</sup> unless their duties and responsibilities to the outside body prevent this.

14.2.2 Should a Member and an officer both be appointed to the same body as the Council's representatives they should seek to agree their understanding of the Council's position prior to any meeting of the body.

14.3 If a Member or officer is appointed to an outside body in a capacity other than as the Council's representative they are not obliged to abide by the Council's position in respect of any matter. They should however seek to ensure that any view that they express or action they take cannot be perceived as bringing the Council into disrepute.

14.3.1 If a Member and an officer have a disagreement in relation to a matter within the remit of that body, arising out of their respective roles on the body, they will treat that disagreement in a professional manner. In particular both the Member and the Officer will take steps to ensure that the disagreement does not affect the nature of their relationship within their respective roles as Member and officer of the Council.

## **15.0 External meetings**

Members, and particularly Cabinet Members, should ensure that they are properly supported by officers when responding to requests to meetings with individuals, external organisations and companies. They should not commit the council to any particular course of action.

## **16.0 Support services to members and party groups**

16.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **17.0 Members' access to information and to council documents**

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<sup>12</sup> For example, where the appointment is as a Director or Trustee of the outside body.

- 17.1 Members have the ability to ask for information pursuant to their legal rights to information. Further details of these rights are set out in the Access to Information Procedure Rules.

## **18.0 Correspondence**

- 18.1 Correspondence<sup>13</sup> between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary for an officer to copy the correspondence to another Member, the original Member will be advised before any such correspondence is copied. In other words, a system of 'silent copies' should not be employed. However, it may be appropriate in certain circumstances for Members to copy correspondence to an officer, for example to Ward colleagues.
- 18.2 Paragraph 18.1 above should not be taken to prevent the copying of correspondence where necessary as part of the background information when briefing a Cabinet Member in relation to the history of any matter. In addition it should be noted that the Council may have to release copies of correspondence in accordance with Freedom of Information Legislation<sup>14</sup>.
- 18.3 Official letters on behalf of the Council (as distinct from letters in response to constituent's queries) should normally be sent in the name of the appropriate officer, rather than the name of a Member. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader, but this should be the exception rather than the norm.
- 18.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.  
When writing in an individual capacity as a ward Member, a Member must make clear that fact.
- 18.5 Officers should respond promptly to correspondence from Members and with the time limits set by service standards.
- 18.6 When entering into correspondence with one another both Members and officers should ensure that they maintain their recognition of and respect for each other's roles and responsibilities. As with other areas of their relationship Members and officers should conduct correspondence in a positive and constructive way and observe the same level of courtesy and respect.
- 18.7 Responses by officers will be monitored and measured by internal performance standards.

## **19.0 Publicity and press releases**

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<sup>13</sup> "Correspondence" in this context means letters, e mails, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Member

<sup>14</sup> For details please see Access to Information Procedure Rules

- 19.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors, and non-domestic rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed. The Local Government Act 1986 prohibits political publicity – this is defined as any material which, in whole or in part, appears to be designed to affect public support for a political party..
- 19.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that the Council's decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Council Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local council publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity, and such other matters as s/he thinks appropriate. The main principles of the Code are:
- That publicity relating to individual Members should relate to their role as a holder of a particular position and personalisation of issues or personal image making should be avoided.
  - Publicity should be factual and designed to raise public awareness and its primary purpose must not be to persuade members of the public to hold a particular view on a matter of policy.
  - Particular care should be taken when publicity is issued immediately before an election or by-election to ensure that this could not be perceived as seeking to influence public opinion, or to promote the image of a particular candidate, or group of candidates. The Code provides 'between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members'.
- The Code also applies to other bodies funded by the Council, where that funding could be used for publicity, for example the Northumberland ALMO.
- 19.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Head of Paid Service. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Head of Paid Service as appropriate.
- 19.4 Contact with the media, including issuing press releases, should be carried out in

accordance with the media protocol agreed by all the group leaders. Further details are available from Communications.

## **20.0 Involvement of ward councillors**

- 20.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Division or Divisions affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Division Members should be notified at the outset of the exercise. More generally, officers should consider whether other policy or briefing papers, or other topics being discussed with a Cabinet Member, should be referred to the relevant Area Committee for consideration. Officers should always inform the local ward member of any new or substantive change in service practice or delivery relating to their ward.
- 20.2 Whilst support for Members' ward work is legitimate, care should be taken if officers are asked to accompany Members to ward surgeries. In such circumstances:
  - the surgeries must be open to the general public, and
  - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
- 20.3 Officers must never be asked to attend ward or constituency political party meetings.
- 20.4 It is acknowledged that some officers (e.g. those providing dedicated support to Cabinet members) 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 Council resources being used for private or party political purposes.
- 20.5 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested time-scale, and may need to seek instructions from their managers.

## **21.0 Access to premises**

- 21.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 21.2 Members have a right of access to Council land and premises to fulfil their duties.
- 21.3 When making visits as individual Members, Members should:
  - whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - comply with health and safety, security and other workplace rules;
  - not interfere with the services or activities being provided at the time of the visit;
  - if outside his/her own division, notify the division Member beforehand; and
  - take special care at schools and establishments serving vulnerable

sections of society to avoid giving any impression of improper or inappropriate behaviour.

## **22.0 Use of council resources**

- 22.1 The Council provides all Members with services such as word processing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
- 22.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:
- where facilities are provided in Members' homes at the Council's expense;
  - In relation to any locally-agreed arrangements e.g. payment for private use or photocopying; and
  - regarding ICT security.
- 22.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:
- business which is solely to do with a political party;
  - work in connection with a ward or constituency party political meeting; electioneering;
  - work associated with an event attended by a Member in a capacity other than as a Member of the Council;
  - private personal correspondence;
  - work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
  - support to a Member in his/her capacity as a councillor of another local council.

## **23.0 Co-opted members**

- 23.1 Officers should provide the same level of support to Co-opted Members of a Committee, as they provide to other (elected) Members, for example by providing them with the same papers, briefings and training opportunities. Officers and elected Members should afford Co-opted Members the same level of respect and opportunity to contribute (so far as their role permits them to do so), as to any other Member of the Board.

## **24.0 Conclusion**

- 24.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.

## **25.0 Breaches of the protocol**

- 25.1 Allegations of breaches of this Protocol by Members may be referred to Monitoring

Officer for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the political group. However, in certain circumstances a breach of this protocol might constitute a breach of the Members' Code of Conduct, in which case a written complaint would be referred to the Standards Committee – Assessment Sub-Committee.

- 25.2 Allegations of breaches by officers are to be referred to the employee's Corporate Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

## **26.0 Monitoring**

The Monitoring Officer will monitor the operation of the protocol and report as necessary to the Standards Panel.

# **Chapter 5**

## **Monitoring Officer Protocol**

### **General Introduction to Statutory Responsibilities**

The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Northumberland County Council.

The current responsibilities of the Monitoring Officer role rest with the Legal Services Manager who undertakes to discharge his/her statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, s/he will also safeguard, so far as is possible, Members and Officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

The main functions of the Monitoring Officer at Northumberland County Council are:

1. To report to the Council and to the Cabinet in any case where s/he is of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989; (LGHA 89)
2. To investigate any matter, which s/he has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
3. To act as the principal adviser to the authority's Standards Committee;
4. To act as the principal adviser to the authority's Standards Panel;
5. To maintain the register of members' interests;
6. To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Cabinet;
7. To have responsibility for responding to complaints to the Local Government Ombudsman
8. To undertake, with others, investigations in accordance with the Council's Whistleblowing procedures
9. To act as Proper Officer for the Data Protection Act 1998 and the Freedom of Information Act 2000

In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:

1. complying with the law (including any relevant Codes of Conduct);
2. complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
3. making lawful and proportionate decisions; and
4. complying with the Council's Constitution and standing orders
5. generally, not taking action that would bring the Council, their offices or professions into disrepute
6. communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters

The main statutory references for the Monitoring Officer's functions are set out in Appendix 1 at page 182.

## **Working arrangements**

It is important that Members and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital therefore, that Members and Officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.

The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers (Strategic Management Team) are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

1. be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
2. have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and/or Strategic Directorate (or equivalent arrangements);
3. have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and/or Group (or equivalent arrangements);
4. in carrying out any investigation(s) have unqualified access to any information held by the Council and to any member or officer who can assist in the discharge of his/her functions;
5. ensure the other statutory officers (Head of Paid Service and the Section 151 Officer or his/her deputy) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
6. meet regularly with the Head of Paid Service and the Section 151 Officer or his/her deputy to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
7. report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Leader of the Council, the Head of Paid Service and Section 151 Officer or his/her deputy;
8. in accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;

9. have an appropriate relationship with the Leader, Deputy Leader and the Chair of the Council, Standards Committee and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
10. develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to them, refer any breaches to them or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council in consultation with the Head of Paid Service and the appropriate Head of Service;
11. maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
12. give informal advice and undertake relevant enquiries into allegations of misconduct regarding Members;
13. in consultation, as necessary, with the Leader of the Council, Cabinet, and the Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
14. undertake all statutory Monitoring Officer functions in respect of any Parish or Town Council and make arrangements to ensure effective communication between his/her office and the Clerk to those Council's within Northumberland on Monitoring Officer and Standards Committee issues;
15. subject to the approval of the Standards Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues;
16. advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator;
17. appoint a deputy and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer. The Deputy will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.

To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposal.

Where the Monitoring Officer receives a complaint of a potential reportable incident, s/he shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.

In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.

In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other officer of the authority.

Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Head of Paid Service and the Section 151 Officer or his/her deputy, s/he is of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the Police for investigation.

The Monitoring Officer is available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc).

To ensure the effective and efficient discharge of this Protocol, the Section 151 Officer or his/her deputy will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

## **Appendix 1**

### ***Monitoring Officer Protocol***

#### **Summary of Main Monitoring Officer Functions**

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3	Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
5	Receive copies of whistleblowing and allegations of misconduct	Code of Conduct for Members and Co-opted Members of Northumberland County Council
6	Investigate misconduct in compliance with Regulations (when made) and directions of Ethical Standards Officers	Regulations when made. Directions when made in individual cases. LGA 2000 Section 66(1)+66(6)
7	Establish and maintain registers of members interests and gifts and hospitality	Section 81 LGA 2000 and Code of Conduct for Members and Co-opted Members of Northumberland County Council
8	Advice to members on interpretation of Code	Code of Conduct for Members and Co-opted Members and regulations when made
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	DET R Guidance
10	New ethical framework functions in relation to Parish Councils	Section 83(12) LGA 2000
11	Compensation for maladministration	Section 92 LGA 2000
12	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	

# Chapter 6

## OFFICERS' CODE OF CONDUCT

### Code of conduct for all employees of Northumberland county council

#### **Introduction**

1. This Code has been developed and should be applied from the perspective that the public is entitled to expect the highest standards of conduct from all employees who work for local government. To depart from this principle would damage the trust and confidence that is of vital importance to the County Council. The reputation of the County Council depends not only upon its behaviour as a whole but also upon your behaviour as one of its employees.
2. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist you in your day-to-day work. The Code is produced in the light of the challenges that employees face in the ever changing environment in which local government services operate.
3. The County Council discharges its responsibilities with openness and integrity and this is reflected in this Code. The Code also provides a framework to make clear the ethical standards expected and offers guidance to enable you to conduct yourself in a manner that will bring credit to yourself and the County Council. Your Group may also develop further rules and practice notes to supplement this general Code.
4. By following this Code, you can be sure that no reasonable person can question your integrity and motives in connection with your employment with the County Council.
5. At certain points in this Code, employees are required to make declarations to, or seek permissions from, your Head of Service. In the case of Head of Service, declarations must be made to (or permissions must be sought from) both the Monitoring Officer and your Corporate Director; in the case of a Corporate Director making the declaration this must go to the Head of Paid Service.
6. All employees are expected to follow the Code of Conduct. In some instances failure to do so may put your employment at risk.
7. This code has been developed in accordance with S82(1) of the Local Government Act 2000 and is deemed to be incorporated into contracts of employment.

#### **Scope**

8. Subject to the note below, this Code applies to all employees of the County Council and others working within it regardless of the basis of the employment including:-  
secondments (both to and from the County Council),  
temporary assignments (both to and from the County Council), Work Placements and Trainees,  
full-time, part-time, job-share, casual, seasonal employees and volunteers  
office holders such as registrars,  
employees acting as members of companies or voluntary organisations,

- the principles of this Code apply to employees subject to Local Management of Schools unless and until the relevant governing body has adopted a Code of its own which incorporates the Northumberland County Council model.
9. The Code also extends to additional or dual employment that has been secured as a result of working for local government.
  10. Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others - but the basic principles apply to everyone.

## **Standards**

### **General**

11. You are expected to give the highest possible standard of service to the public, and where it is part of your duties, to provide appropriate advice to councillors and fellow employees with impartiality. You should also bring to the attention of your line manager any deficiency in the provision of service.
12. You must report to your line manager, in writing, any impropriety or breach of the County Council's policies or procedures. If there is any difficulty with this you should report the matter to a higher level of management or to the Monitoring Officer. If you discover or suspect that a fraud or other financial irregularity has taken place you are required to report this to a senior officer or the Finance Group. The County Council will ensure that all employees making such reports are protected from victimisation.
13. You should regard yourself as an ambassador for the County Council and act in all situations in a way that will bring credit to yourself and your employer.
14. The County Council encourages employees to report any activities which may be illegal, improper, unethical or inconsistent with the Code of Conduct rather than overlooking the problem. Employees can find further information on how to do this by viewing the Whistleblowing Policy found on the HR pages of the intranet.

### **Honesty**

15. Implicit in your contract of employment or your contract for services/work with the County Council is the requirement to act with honesty and integrity. If you behave in such a manner that you can no longer be trusted you risk losing your employment or contract. For example, you must not falsify timesheets, flexitime sheets, expenses claims, work progress logs or indeed any work records.

### **Loyalty**

16. It is a fundamental implied term of your contract of employment that you are loyal to the County Council.
17. Generally speaking, you must not actively criticise or challenge the policies or decisions of the County Council or its managers in public. However, it is perfectly legitimate (unless you hold a politically restricted position and therefore you should seek assistance from your HR Advisor) for you to use the methods of protest and persuasion that any other citizen can use such as letters of complaint, approaches to your local councillor, attendance at protest meetings or writing to the press. What you must not do is to use "inside information" which is not available to the public at large or to capitalise on your position in the County Council if you make statements intended to be published to the public at large. Neither must you deliberately set out to publicly embarrass or undermine your managers, your Group or the County Council.
18. You can raise matters of concern informally with your manager, and, if the matter affects your employment, you could use the Grievance Procedure.

19. Employees agree to serve Northumberland County Council loyally and in good faith and not to act against the Council's interests. This duty subsists throughout your employment up to termination date and consists of:
- not misusing the Council's property
  - not soliciting the customers or clients of the Council in order to transfer their custom to yourself once you have left the Council
  - not setting up in direct competition with the Council (although the code does not extend to prevent yourself from seeking alternative employment whilst still employed by the Council)
  - not disrupting the Council's business

### **Personal behaviour**

20. Your personal behaviour will influence the public's opinion of the County Council in any situation where you can be identified as one of its employees. Examples might include use of bad language, horse-play at work, or situations that might affect work, or any conduct that is not of the standard expected of Local Government employees. Whilst on Council business you should be mindful that you are representing the County Council at all times.
21. The consumption of alcohol during the working day (including lunch breaks or before commencing work) is discouraged as even small quantities have an adverse effect on work performance and the reputation of the County Council.
22. If you are suspected of being incapable of properly performing your official duties by reason of alcohol or drugs, which would include the use of Council machinery and vehicles, you are liable to be suspended from duty pending a decision on disciplinary action being taken against you.
23. You must observe the statutory smoking ban and adhere with the County Council's Smokefree Workplace Policy. The policy states clearly where smoking is banned and those who breach the rules may be liable to disciplinary action. You are expected to report incidents where the policy is being breached.

### **Courtesy and co-operation**

24. You have the right to be treated with courtesy and understanding by your colleagues, managers, the County Council and its elected members and you should treat others in the same way.
25. You should help and support your colleagues in all their legitimate endeavours at work. You have the right to support from your manager or supervisor in any difficulties you might have with work colleagues or with the public, pupils or clients of the County Council provided that you have acted in accordance with your contract of employment and this Code.

### **Personal appearance**

26. In your appearance as well as in your behaviour, you should regard yourself as an ambassador for the County Council and dress in clothing that is appropriate for your duties. Your Group or Service may have a code of dress where it is important to project a favourable image of the County Council and its employees, and you must follow any such code that applies to you. All employees are required to be neat and tidy in appearance. If you have direct contact with customers or members of the public you must look smart and be well groomed.
27. If you are required to wear specific items of clothing, hairstyles or jewelry in accordance with your ethnic background or faith, your needs will be accommodated where possible and practicable, however this must not pose a hazard to the health and safety of any person or contravene any legitimate or reasonable requirement of the County Council. The Council reserves the right to insist that you do not wear particular items of clothing or jewelry which it believes may cause offence to customers, suppliers, or other employees or which may pose a risk to the health and safety of any person.

28. The County Council will enforce these rules having regard to the differences for men and women.
29. As an employee of Northumberland County Council you are expected to wear your security ID badge at all times ideally on a lanyard around your neck. It must be clearly visible and produced on request.

### **Internet and Social Networking**

30. Personal access to the internet is considered acceptable provided that the use is reasonable, properly sanctioned by managers and is in the user's own time. Similarly, this kind of use is acceptable for officers who operate County Council equipment in their homes. The County Council monitors the use of the internet for legitimate business reasons, including compliance with this policy. By using the internet, users are deemed to have consented to the monitoring, recording and auditing of internet use. Employees should familiarise themselves with the Internet Usage Policy on the intranet.
31. Northumberland County Council recognises and accepts that its employees may keep personal web logs (blogs) on the internet and that internet social networking sites are a useful way of interacting socially with colleagues and friends. While the County Council does not wish to discourage employees from accessing such sites on the internet, nonetheless, it expects certain standards of conduct to be observed to protect both its legitimate business interests and its employees from the dangers of inappropriate use. This applies both inside and, in certain circumstances, outside the workplace.
32. As an employee of Northumberland County Council you must;
  - not access social networking sites during working hours, unless you are authorised to do so for Council business.
  - make it clear when posting information or comments on social networking sites that any personal views which are expressed do not represent those of Northumberland County Council.
  - not post information on a social networking site which is confidential to the County Council, its suppliers, customers or contractors.
  - refrain from making reference on a social networking site to the County Council its employees, its customers, its clients, its suppliers and contractors.
  - not post entries on a social networking site which are derogatory, defamatory, discriminatory or offensive in any way, or which could bring the County Council into disrepute.
    - be aware that blogs may create documents which the courts can order to be disclosed for use in litigation. Consequently, employees will be assumed to have written any contentious items unless they can prove definitively that they have not done so.
    - not make discriminatory or offensive comments about work colleagues on social networking sites.
33. Offensive, defamatory or inappropriate comments about the County Council, its customers, suppliers or any of its employees that write on social networking sites will not be tolerated.
34. Where conduct is in breach of this policy disciplinary action may be taken in accordance with the County Council's disciplinary procedure up to, and including, dismissal.
35. Any blog entries made inside or outside the workplace that are defamatory, derogatory, or discriminatory about Northumberland County Council, its customers, suppliers or employees will be investigated as potential gross misconduct. If substantiated, such conduct may lead to summary dismissal after the due process of the County Council's disciplinary procedure has been followed.
36. Before using social networking you should read and understand the Social Networking Policy

found on the HR pages of the intranet.

## **Relationships**

### **Councillors**

37. You are responsible to the County Council through its senior managers. If your role is to give advice to councillors and senior managers, you should remember that all are there to carry out the County Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

### **The local community and service users**

38. You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

### **Contractors**

39. All relationships of a business or private nature with external contractors, or potential contractors (with the exception of the public utilities), should be made known to your Head of Service. Orders and contracts must be awarded on merit, by fair competition against other tenders where applicable, and no special favour should be shown to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.
40. If your job entails engaging or supervising internal or external contractors or having any other official relationship with contractors and you have previously had or currently have a business or personal relationship in a private or domestic capacity with any contractors (except the public utilities), you should declare that relationship to your Head of Service and make HR aware of this also.
41. You must not use, in a private or domestic capacity, any contractor with whom you have had or are having an official relationship (with the exception of the public utilities), without first obtaining the permission of your Head of Service.

### **Appointment and other employment matters**

42. If you are involved in appointments you should ensure that these are made on the basis of merit. It would be unlawful to make an appointment that was based on anything other than the ability of the candidate to undertake the duties of the post.
43. In order to avoid any possible accusation of bias, you should not be involved in or attempt to influence an appointment where the applicant is related to you, is your partner or is a close personal friend outside work. In this context related means if you are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, senior officer, Headteacher or School Governor of a Northumberland County Council school or the partner of such persons.
44. You must follow the County Council's Recruitment Code at all times if you are engaged in the recruitment of staff.
45. You must not be involved in or attempt to influence decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, or close personal friend or in any situation where you could benefit from that situation.

46. The information contained in Criminal Record Disclosures is considered highly confidential and the Council will restrict access to those who are entitled to see it as part of their duties. The Council's CRB Policy clearly defines the use of disclosure information. If you are involved in CRB clearances you must read and understand the policy which can be found on the HR pages of the intranet.

### **Spouses, partners and close personal friends**

47. Good working relationships within the work group and the formation of social links within and between work groups are signs of a healthy organisation and should be encouraged. It is accepted that this section of the Code might restrict an individual's freedom to be employed where they like but we must all be seen to operate at the highest standards of openness, fairness and integrity.
48. If a social relationship develops into a close personal relationship, this can often interfere with the normal working relationships within the work group and can cause others to doubt that they will be treated fairly.
49. If a person with whom you have a close personal relationship is employed by the County Council, you should take special care to conduct yourself in such a manner that the relationship does not interfere with normal working relationships and does not cause others to doubt that they will be treated fairly. If it does, then you may not be able to do the job for which you are employed. Appropriate action will be taken in such circumstances.
50. For similar reasons, people who already have a close personal relationship should not seek employment in the same work group. Senior employees have a particular responsibility to ensure that there can be no question of favouritism or bias in the appointment or treatment of any person with whom they have a close personal relationship outside their particular work group. The higher the person is in the management structure, the greater the likelihood of there being an adverse effect on normal working relationships if people with close personal relationships are employed in the organisation.
51. Those involved in a close personal relationship with a work colleague which has broken down must ensure that they do not involve others in their private affairs within the workplace. Relations and/or their breakdown must not interfere with working arrangements and employees must ensure that work is not affected. Neither will the County Council allow parties in a domestic dispute to use its employment policies and procedures as a means of pursuing a campaign of victimisation, unless there is a genuine employment issue.

### **Interests of spouses, partners and close personal friends**

52. You must avoid situations arising where your spouse, partner or close friends work in occupations or have businesses or other interests that could reasonably be seen by the public or clients to conflict with or benefit from your employment with the County Council. All interests of this description must be declared to your Head of Service and make HR aware of this also. Such situations often interfere with the normal working relationship and can cause members of the public, actual or prospective contractors and clients to doubt that they will be treated fairly. If such a situation develops then you may not be able to do the job for which you are employed.

### **Political neutrality**

53. You serve the County Council as a whole. It follows you must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
54. An employee should not be called upon to advise any political group of the County Council either as to the work of the group or as to the work of the County Council, neither shall an employee be required to attend any meeting of any political group.

55. Whether or not you are politically restricted, you must follow every lawful expressed policy of the County Council and must not allow your own personal or political opinions to interfere with your work.
56. If you are a Political Assistant appointed on a fixed term contract in accordance with the Local Government and Housing Act 1989, you are exempt from the standards set out above.
57. Nothing in this section of the code would prevent an employee from being a member of a political party [unless you hold a politically restricted position] or voting in any election.

### **Use of Financial Resources**

58. You must ensure that you use public funds entrusted to you in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid legal challenge to the County Council.
59. You must abide by the County Council's financial and procurement procedures and follow any instructions given by your managers and Internal Audit.

### **Equality Issues**

60. The County Council is committed to tackling discrimination in how it treats its employees and how it delivers services, and also to actively promoting and championing equality in the community. You are entitled to expect fair and reasonable treatment by your colleagues, managers and Councillors. If you feel that you have been unfairly treated, discriminated against or harassed, you are entitled to make use of the Council's Grievance Procedure. You are also entitled to be treated with respect by clients, service users and members of the public, and be supported with this by the Council.
61. In the same way, you are required to treat your colleagues, staff and members of the public fairly and with respect. Not only is it a criminal offence to harass another person on any ground, it is also a disciplinary offence in the Council.
62. It is your responsibility to read and abide by the Council's Equality Policies and to be familiar with your legal duties under the Equality Act 2010.

### **Health and Safety issues**

63. In line with legal and contractual obligations, all employees are required to cooperate and ensure compliance with Corporate and Group Health & Safety Policies and objectives. This includes adherence to all identified safe working procedures and risk assessments. All employees are actively encouraged to familiarise themselves with Health and Safety documentation, especially risk assessments, attend any training identified as part of their role and raise any health and safety concerns with, in the first instance, their line manager.
64. If you use a car on County Council business you are responsible for ensuring that you are properly licensed to drive and that the vehicle in question is properly maintained, taxed, insured and has a current MOT certificate. The insurance policy must cover you for the use of the vehicle in connection with your employment. On a regular basis you will have to produce satisfactory evidence that you and any vehicle that you use complies with prevailing statutory requirements in relation to driving and vehicle licensing, taxation and certification. If you or the vehicle are unable to meet the statutory requirements you must notify your line manager immediately and you must not use the vehicle on County Council business. Failure to comply with these provisions is a serious disciplinary matter.

### **Disclosure of information**

65. It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The County Council has procedures to ensure that it complies with its duties and responsibilities under the Freedom of Information Act 2000 which you should read and follow if

you receive a request under this legislation. If in doubt, you should assume that information is confidential and seek permission before releasing it.

66. Separate policies are also in place regarding sharing information for safeguarding and welfare purposes where there can be consequences in not sharing relevant information. These can be accessed through the Health & Social Care section of the intranet. Against this background the County Council must also safeguard privacy and confidentiality and comply with its duties and responsibilities under the Data Protection Act 1998. During the course of their duties many staff regularly deal with private and confidential information relating to individual clients, service users, members of the public or work colleagues and about groups, companies and other organisations. You must not supply confidential information to anyone who is not entitled to see it. You must also take appropriate action to protect against accidental disclosure or discovery of information and to ensure that unauthorised people do not gain access to County Council information systems. You should read and follow the County Council's Data Protection and Information Security Policies and any service specific procedures that have been prepared. ICT and information security is managed and coordinated by the Information and Security Officer. However, generally, security is the responsibility of all members of staff. Deliberate or negligent breaches of confidentiality and the terms of these policies are deemed a serious disciplinary matter. Staff links to the Council's ICT policy is available on the intranet which you should read and understand.
67. You must not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.

Any particular information received by you from a councillor which is personal to that councillor and does not belong to the County Council must not be divulged by you without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

#### **Outside commitments**

68. An employee's off-duty hours are their own personal concern but they should not subordinate their duty to their private interests or put themselves in a position where their duty and their private interests conflict. As a general rule, the County Council will not attempt to preclude employees from undertaking additional employment, but any such employment must not, in the view of the County Council, conflict with or react detrimentally to the County Council's interests, or in any way weaken public confidence in the conduct of the County Council's business. If you are in any doubt about this you should seek advice from your Head of Service or the Head of Paid Service. If you wish to pursue an application you should complete an "APPLICATION TO UNDERTAKE SECONDARY EMPLOYMENT OR ENGAGE IN ANOTHER BUSINESS" form, which is available from the HR pages of the intranet.
69. If you are graded above Band 7 (SCP34) you are required to devote your whole-time service to the work of the County Council and not engage in any other business or take up any other additional appointment without the express consent of the County Council. Employees graded up to and including Band 7 (SCP34) should, however, check with their manager to ensure that any other employment they propose to undertake does not conflict with their employment with the County Council. This provision applies to part-time and full-time employees.
70. If you engage in any paid or unpaid secondary employment or business you must not use or mention your employment with the County Council in order to gain business or trade for that secondary employment

#### **Intellectual Property**

71. All creative designs, writings and drawings produced by employees in the course of their duties are the property of the Council.
72. All inventions made by employees remain the property of the County Council if made during the course of normal duties. Normal duties are those described in an employee's terms of employment, job description and those arising from an instruction from a manager or other

- authorised representative of the County Council.
73. This means that you are not free to disclose, publish or otherwise use the work you produce for the County Council for personal gain or benefit unless you have express, prior approval from your Head of Service.
  74. Fees for giving lectures or writing articles may only be retained by employees where these activities are not integral to their employment or position with the County Council and they are conducted in the employee's own time.

### **Personal interests**

75. You must declare any non-financial interests which could conflict with the County Council's interests to your Head of Service using the "DECLARATION OF INTERESTS AND MEMBERSHIPS" form, which is available from the HR pages of the intranet.
76. You must also declare any financial interests which could conflict with the County Council's interests to your Head of Service using the "DECLARATION OF INTERESTS AND MEMBERSHIPS" form, which is available from the HR pages of the intranet.
77. You must declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct (for example, the freemasons) to the Council's Monitoring Officer using the "DECLARATION OF INTERESTS AND MEMBERSHIPS" form, which is available from the HR pages of the intranet.
78. If you are a Head of Service this declaration must be made on the form referred to above and must be sent to the Council's Monitoring Officer immediately following the annual invitation to make a "DECLARATION OF OFFICERS' INTERESTS" under County Council Standing Order No. 47.
79. In accordance with the Local Government and Housing Act, certain employees occupy politically restricted posts and are required to seek exemption if proposing to engage in certain activities. Further details are available from HR.
80. The information supplied under the paragraphs above will not affect your position in the County Council. The information will normally be made available only to your Head of Service and the officer nominated to be responsible for its secure storage. However, where a relevant complaint or query is made, the Monitoring Officer and the County Council's auditors will also have access to the information so that a proper response can be made to the complaint or query. If you are a Head of Service the information contained in, accompanying and appended to the "DECLARATION OF OFFICERS' INTERESTS" forms which you are invited to complete annually under County Council Standing Order No. 47 is entered on a register kept by the Head of Paid Service and is open to inspection by any member of the County Council.

### **Improper use of position, title or authority**

#### **General**

81. Good working relationships within the work group and the formation of social links within and between work groups are signs of a healthy organisation and should be actively encouraged by managers. The paragraphs which follow, however, emphasise the point that, during working hours, you are paid to work for the County Council and not to represent or promote your private interests.

## **Influencing colleagues to purchase goods or services**

82. Inside or outside working hours, you must never misuse your position to attempt to persuade any member of your staff to purchase any goods or services. You should also note that you may require the formal permission of the County Council before you can engage in any other business or profession.
83. Managers should not seek sponsorship from or attempt to sell raffle tickets etc., to their staff no matter how good or charitable the cause. However, this paragraph does not prevent colleagues undertaking these activities amongst themselves. The intention here is to remove any real or imagined pressure from management.

## **Touting on behalf of secondary employment**

84. Touting for or on behalf of any secondary employment in working hours is an improper use of the County Council's time and will be dealt with accordingly. You should also note that you may require the formal permission of the County Council before you can engage in any other business or profession.

## **Use of County Council property**

### **General**

85. The general rule is that you must only use County Council property at the workplace for work purposes and the paragraphs below set out this requirement in more detail. However, there are exceptions where a Head of Service may give you permission to use County Council equipment away from the workplace. Examples might include:-

- the short-term loan of equipment, textbooks or manuals so that you may study or practice in your own time and so be able to do your job more effectively,
- the loan of equipment to enable you to do County Council work at home and so increase productivity.

In all such circumstances, the Head of Service should keep a proper record of the identity of the equipment, the period of the loan, the reason for the loan and any restrictions imposed on the use of the equipment.

### **Premises**

86. You must not engage in any secondary employment or business on County Council premises at any time. To do so could be interpreted as gaining a pecuniary advantage by way of your employment and that is illegal.
87. If you are engaged in secondary employment you must not park any vehicle on County Council property if it can be identified as being a vehicle used for that employment or if it contains any visible materials relating to that secondary employment. If the vehicle otherwise satisfies the foregoing conditions it must also be suitable and available for use in your official capacity if you are required to use a vehicle in your employment with the County Council.
88. You must not store any items connected with any secondary employment or any personal items (except those which are used in connection with your official duties) on County Council property.

### **Equipment and other property**

89. Where equipment is made available to the public you may use it at the same charge (if any) as is made to the public. Otherwise, equipment and property belonging to the County Council must only be used for official purposes. Some particular examples and exceptions are shown below.

## **Clothing and Personal Protective Equipment**

90. Clothing and personal protective equipment supplied by the County Council may be worn between home and work if that is convenient for you but under no circumstances may it be worn for domestic use or during, in connection with, or when travelling to or from any secondary employment.

## **Tools-of-the-trade**

91. No "tools of the trade" supplied by the County Council may be used in connection with any secondary employment.

## **Telephones**

92. Personal mobiles or pay phones should be used if there is a need to make personal calls during working hours. You are expected to be conscious of excessive use of mobile phones during work time and this must be kept to an acceptable level. County Council mobiles issued for use for work purposes must only be used for work calls.
93. You may also use the work telephone to receive a reasonable number of incoming calls, to phone home to say that you will unexpectedly be working late and for emergency reasons. Under no circumstances should work telephones be used in connection with any secondary employment.

## **Photocopiers**

94. County Council photocopiers which are not available for public use must only be used for County Council business. From time to time, certain special arrangements are made by the County Council and you may make use of these facilities for personal purposes.

## **Facsimile (fax) machines**

95. County Council fax machines which are not available for public use must only be used for County Council business.

## **Franking machines and stamps**

96. Under no circumstances must any mail which is not official County Council mail be caused or permitted to be franked by a County Council franking machine. You should use your own postage stamps on any material posted through the County Council's post system.

## **Computers**

97. County Council computing equipment must only be used for official purposes.

## **Stationery**

98. Documents issued under the banner of the County Council or any of its organisations or establishments must only be used for official purposes. It should be noted that the use of such documents for any other purpose might constitute a criminal offence.
99. County Council headed paper must only be used where you are expressing the view of the County Council or acting on its behalf.

## **Leased cars**

100. If you have a car leased to you by the County Council you may only use it for the purposes described in your lease agreement.

## **Council Vehicles**

101. If you have a Council Vehicle which you use in your day to day work it is your responsibility that it is only used for Council business and not for personal use.

## **Vouchers**

102. Vouchers obtained through County Council purchases are the County Council's property and are to be used only for its official purchases.

## **"Cash and Carry" cards**

103. Cash and Carry cards obtained by the County Council are to be used only for its official purchases.

## **"Company" credit cards**

104. Credit cards obtained by the County Council are to be used only for its official purchases and to enable you to perform your official duties.

105. Fuel (Agency) cards are to be used only for purchases for County Council vehicles when being used on official business. They must not be used for travel in any vehicle in a personal capacity or in connection with any secondary employment.

## **Situations of personal gain or advantage**

### **General**

106. The following paragraphs should be followed carefully as it is criminal offence to gain a pecuniary advantage by way of your employment with the County Council.

### **Purchases from County Council stocks**

107. You may purchase from stocks of property or goods owned by the County Council, for yourself or for others, only if those items are generally available for sale to the public or if the County Council has specifically invited employees to make such a purchase.

### **Purchases from County Council contractors and clients**

108. You may purchase property, goods or services for yourself or others from contractors engaged by the County Council but only at the prices and by the means adopted for the sale of such items to the public at large. Exceptions to this rule are where a leased car user wishes to purchase the car on retirement or redundancy or where the County Council makes specific arrangements (such as the staff discount scheme) for all its employees.

### **Purchase of surplus property**

109. You may purchase surplus property or goods owned by the County Council in accordance with the guidelines issued by the County Council's Internal Auditors and adopted by your employing group or establishment.

### **Bribery Act 2010**

110. There are several offences under the Bribery Act 2010 which relate to local authorities including:

- Bribery - where a person offers, promises or gives a financial or other advantage to another person, with the intention of inducing them to perform improperly a relevant function or activity, or to reward a person for such improper performance.
  
- Receiving a bribe - Where a person requests, agrees to receive or accepts a financial or other advantage with the intention that, in consequence, a relevant function or activity should be performed improperly by themselves or another. It does not matter whether the advantage is direct or through a third party, or whether the benefit is for that person or another.
  
- Bribery a foreign official - Where a person with the intention of obtaining or retaining business, or an advantage in the conduct of business, bribes a foreign public official with the intention of influencing them in their capacity.

The offences under the Act carry a maximum of 10 years imprisonment and/or an unlimited fine for an individual. More information can be found on this in the Council's Anti-Fraud and Corruption Strategy.

### **Separation of roles during Tendering**

111. If you are involved in the tendering process or dealing with contractors, you should be clear on the separation of client and contractor roles within the County Council. If you are a senior employee with both a client and contractor responsibility, you must be aware of the need for accountability and openness.
112. If you are employed in a contractor or client unit, you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors. If you have any direct or indirect interest in the outcome you must play no part in the selection of tenderers, contractors or sub-contractors.
113. If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised party or organisation.
114. If you are contemplating a management buyout, you should, as soon as a definite intent has been formed, inform the Corporate Director of Local Services and Section 151 Officer and withdraw from the contract awarding processes.
115. You should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

### **Corruption**

116. You are warned that it is a serious criminal offence 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 your official capacity. If an allegation is made, the law is such that the onus is on you to demonstrate that any such rewards have not been corruptly obtained.
117. The public is entitled to demand of a local government employee, conduct of the highest standard and public confidence in their integrity would be shaken were the least suspicion to arise that they could be influenced by improper motives. Any offers of a bribe must be reported immediately to the Section 151 Officer and Chief Internal Auditor.

### **Sponsorship - Giving and Receiving**

118. Where an outside organisation wishes to sponsor or is seeking to sponsor a County Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
119. Where the County Council wishes to sponsor an event or service neither you nor any partner, spouse or relative must benefit from such sponsorship in a direct way although the County Council has no objection to you obtaining insignificant or token benefits up to a value of £25. Benefits of greater value should be dealt with in the same way as gifts from service users and clients.
120. Where the County Council through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved.

### **Hospitality**

121. You should only accept offers of hospitality if there is a genuine need to impart information or represent the County Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community and where the County Council should be seen to be represented. In such cases they should be properly authorised by your Head of Service, or if you are the Head of Service, to the Corporate Director and recorded

using the “DECLARATION OF HOSPITALITY AND GIFTS” form found on the HR pages of the intranet.

122. Heads of Service should review and approve hospitality but also check at the same time that regular instances of hospitality with the same supplier are appropriate.
123. When hospitality has to be declined those making the offer should be courteously but firmly informed of the fact that Local Government Officers must be seen to be acting impartially and with integrity.
124. When receiving authorised hospitality you should be particularly sensitive as to its timing in relation to decisions which the County Council may be taking affecting those providing the hospitality.
125. It is acceptable for you to accept hospitality through attendance at relevant conferences and courses when it is clear the hospitality is corporate rather than personal, where the County Council gives consent in advance and where the County Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc., are required, you should ensure that the County Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
126. A checklist of provided at Appendix A which you can use to help you decide whether or not it is appropriate to accept hospitality.

## **Gifts**

### **General principles**

127. The high standards of integrity applying to Local Government service require that all employees provide an equally high standard of service to all service users, clients and contractors without fear or favour.
128. In a climate where gifts are accepted, the general public and the givers of gifts can come to believe that the level of service provided could be influenced by gifts; whether or not this is true in practice. Therefore, neither you nor members of your family should accept significant personal gifts from service users, clients, contractors or outside suppliers, although the County Council has no objection to you keeping insignificant items of token value such as pens, diaries, etc., Gifts of greater value should be dealt with as set out in paragraphs 106 to 108 below. Where a number of small gifts over a period of time amount to more than £25 collectively these should be declared.
129. A checklist is provided at Appendix A which you can use to help you decide whether or not it is appropriate to accept gifts.

### **Gifts from service users and clients**

130. The aim must always be to refuse a gift politely and tactfully and to give a proper explanation of the reasons for the refusal. If it is clearly not going to be possible to do this without causing unnecessary distress or offence to the donor, try to make an opportunity to consult your manager before accepting. If this is not possible, and you are quite sure that refusal would cause significant distress or offence, accept the gift but make an immediate written note of the details of the gift and the circumstances in which the gift was made and give that note to your manager at the first available opportunity. Your Head of Service will then complete the “DECLARATION OF HOSPITALITY AND GIFTS” so the information can be recorded.
131. Occasionally a gift may simply be delivered and there may be a problem over returning it, for example, a turkey at Christmas. Should that happen, consult a senior officer about what to do. It may, for example, be acceptable to the donor for the gift to be raffled and the proceeds donated to charity or it may be possible to ensure that needy clients of the County Council (and not any of its employees) receive the benefit of the gift. Whatever is done should be agreed with your Head of

Service and the agreed course of action should be clearly documented using the “DECLARATION OF HOSPITALITY AND GIFTS”.

132. Special problems can arise when gifts (including bequests in wills) are offered by individuals to staff with a caring role or who provide a direct personal service to those individuals. Great tact and sensitivity are needed to avoid giving needless offence and to protect the employee from any suggestion of improper conduct. The advice given above should also be followed if an employee becomes aware that they are or may be a beneficiary under a (deceased) client's will.

## Gifts and Hospitality

### Checklists for considering whether to accept a gift or hospitality

The question in all cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

- (a) Is the value of the gift/hospitality £25 or over?
- (b) If under £25 is it intended as an inducement?
- (c) Is the extent of the hospitality or nature of the gift reasonable and appropriate?
- (d) Does the donor have any form of contractual relationship with the Council, does it provide goods or services to the Council of any kind?
- (e) Is the invitation/gift directed to a large group of unrelated individuals or open to the public, or have you been targeted because of your employment with the Council and nature of your role?
- (f) What do you think is the motivation behind the invitation/gift?
- (g) For hospitality do you want to go and if so, why? Is it because there will be genuine benefits to the Council in terms of networking and contacts gained? Or is a desire to go centred around personal enjoyment?
- (h) Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving the Council?
- (i) For gifts is there a difficulty in returning the gift? If it would cause offence can the gift be given to charity or can you pay an equivalent price of the gift to charity?

If you decide to accept a gift over £25 you must register that in the register of interests, if you decline a gift over £25 this should also be registered with a statement that the gift was declined.

You should consider carefully whether to register gifts and offers of gifts below £25 having regard to issues highlighted above. The relevant form is available on the HR pages of the intranet "*DECLARATION OF HOSPITALITY AND GIFTS*".

**DECLARATIONS OF HOSPITALITY AND GIFTS**

Name	Job Title
Group	Grade

**This application is made in respect of:**

- Hospitality**

**Name of company/individual making the offer.....**

**Relationship with the company/individual.....**

**Date Offer**

**Received.....**

**Approx Value of Offer (If known).....**

**Offer**

**Accepted/Declined.....**

.....

**Head of Service**

**Authorisation.....**

**This application is made in respect of:**

- Gifts**

**Name of company/individual making the offer.....**

**Relationship with the company/individual.....**

**Date Offer**

**Received.....**

**Approx Value of Offer (If known).....**

**Offer**

**Accepted/Declined.....**

.....

**Date of when referred to Head of Service.....**

Signed	Date
--------	------

Once complete this form should be forwarded to your Head of Service who will let you know the outcome, they will

also send a signed copy to HR (or, in the case of a Head of Service making a declaration, a copy should be sent to Monitoring Officer and the Head of Paid Service). The information will be kept confidential and will not affect your position in the County Council but may be subject to Internal Audit Review.

<b>Decision of Head of Service appropriate)</b>	<b>Approved/Not Approved* (delete as appropriate)</b>
<b>Signature.....</b>	
<b>Date.....</b>	
<b>If the offer is not approved please give details to explain your reasons.....</b>	
.....	
.....	
.....	



You have been asked to provide the information above to help the County Council reach a decision in regard to the performance of your contract of employment. The County Council will process the information you provide, strictly for employment purposes and in accordance with the Data Protection Act 1998 and the County Council's own Data Protection Policy.

# **PART 7**

## **Members' Allowances Scheme**

# Members' Allowances Scheme 2013

Northumberland Council hereby makes this Scheme under The Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) and all other powers enabling the Council in this behalf

(This scheme should be read in conjunction with the Members' Allowances, Statutory Sick Pay and Insurance Guidance Notes)

## 1. Introduction

This scheme may be cited as The Northumberland Council Members' Allowances Scheme 2013 ("this Scheme"), and shall have effect from 22 May 2013 and shall continue in force thereafter until revoked or amended.

The previous Northumberland Council Allowances Scheme is revoked.

In this scheme:

"the Council" means Northumberland County Council.

"Co-optee" means a person who is not a Councillor but who is a co-opted member of a Committee of the Council.

"Councillor" means an elected member of the Council.

"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 –

- (a) the period beginning on 22 May 2013 and ending on 31st March 2014; and
- (b) any period of 12 months ending on 31st March in any year after 2014.

## 2. Basic Allowance

- 2.1 For each year a basic allowance ("basic allowance") set out in Schedule 1 shall be paid to each Councillor.
- 2.2 The basic allowance shall be automatically linked to annual pay awards for NJC for Local Government Services staff and shall be increased at the same level from 1st April each year. If these rises apply at different periods in the year, then the basic allowance shall be similarly adjusted at the same time.

- 2.3 Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, his or her entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his or her term of office as Councillor subsists bears to the number of days in that year.
- 2.4 Where a Councillor is suspended or partially suspended from his or her responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of basic allowance payable to him or her in respect of the period for which he or she is suspended or partially suspended may be withheld by the Council.

### **3. Special Responsibility Allowance**

- 3.1 For each year for which this scheme relates a special responsibility allowance ("special responsibility allowance") shall be paid to those Councillors who have the special responsibilities in relation to the Council that are specified in Schedule 2.
- 3.2 The amount of each special responsibility allowance shall be the amount specified against that special responsibility in Schedule 2.
- 3.3 Where a Councillor does not have throughout the whole of a year any such special responsibilities as entitle him or her to a special responsibility allowance, his or her entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.
- 3.4 Where a Councillor is suspended or partially suspended from his or her responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of special responsibility allowance payable to him or her in respect of the responsibilities or duties from which he or she is suspended or partially suspended may be withheld by the Council.
- 3.5 Any Councillor who would be entitled to claim more than one special responsibility allowance, in accordance with Schedule 2, shall only be entitled to receive one such allowance (and where the allowances are of different amounts, the entitlement shall be to the highest amount), unless otherwise provided in Schedule 2.

### **4. Dependents' Carers' Allowance**

- 4.1 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 dependants while undertaking the duties specified in Schedule 3.
- 4.2 The Dependents' carers' allowance will be payable in respect of actual expenditure up to the amount specified in Schedule 3 and will be subject to the eligibility criteria set out in that Schedule.

## **5. Travelling and Subsistence Allowance**

- 5.1 Councillors and Co-optees may claim expenses in respect of travelling and subsistence up to scale rates in accordance with Schedule 4 undertaken in connection with or relating to the duties specified in Schedule 5.
- 5.2 The travelling and subsistence allowance will comprise the rates specified in Schedule 4.
- 5.3 Where a Councillor or Co-optee is suspended or partially suspended from his or her responsibilities or duties as a member or Co-optee of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, any travelling and subsistence allowance payable to him or her in respect of the responsibilities or duties from which he or she is suspended or partially suspended may be withheld by the Council.

## **6. Amendments and Repayment of Part of Allowances**

- 6.1 This Scheme may be amended at any time.
- 6.2 Where an amendment is to be made which affects an allowance payable for the Year in which the amendment is made, the entitlement to such allowance as amended may apply with effect from the beginning of the Year in which the amendment is made unless determined otherwise by full council.
- 6.3 Where payment of any allowance has already been made in respect of any period during which the Councillor or Co-optee concerned:
  - is suspended or partially suspended from his or her responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part then the Standards Committee should be empowered to suspend in whole or part the allowances payable to that Councillor and/or co-optee;
  - ceases to be a Councillor or a Co-optee;
  - or
  - is in any other way not entitled to receive the allowance in respect of that period,

the Council may require that such part of the allowance as relates to any such period be repaid to the Council.

- 6.4 Where a Councillor is also a member of another council (as defined in the Regulations) that Councillor may not receive allowances from more than one council in respect of the same duties.

## **7. Pensions**

- 7.1 Where a councillor was an active councillor member of the Local Government Pension Scheme before 1 April 2014, he or she can remain in the Scheme until the end of his or her current term of office, with his or her basic allowance and special responsibility allowance treated as pensionable.
- 7.2 A Councillor who was not an active councillor member of the Local Government Pension Scheme before 1 April 2014 cannot join the Scheme.

## **8. Election to forgo allowances**

- 8.1 A person may, by notice in writing given to the Section 151 Officer, elect to forgo all or any part of his or her entitlement to any allowances under this scheme.

## **9. Claims and Payments**

- 9.1 Payments of basic and special responsibility allowances shall be made in instalments of one twelfth of the amount specified in this scheme on the fifteenth day of each month (the fourteenth day when the fifteenth is a Saturday and the sixteenth day when the fifteenth is a Sunday).
- 9.2 Where a payment of one twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of parts 2 and 3 of this scheme, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- 9.3 A claim for the following allowances must be made by the person to whom they are payable within a month from the date on which an entitlement to the relevant allowance arises:
  - Dependants' carers' allowance.
  - Travelling and subsistence allowance.
- 9.4 Nothing in paragraph 9.3 shall prevent the Council from making a payment where the allowance is not claimed within the period specified in paragraph 9.3.

## **10. Delegations**

- 10.1 The Standards Committee shall have full delegated power to make the following determinations under this Scheme-
  - (a) under paragraph 2.4, whether to withhold payment of a basic allowance during the suspension etc. of a councillor;

- (b) under paragraph 3.4, whether to withhold payment of a special responsibility allowance during the suspension etc. of a councillor;
  - (c) under paragraph 5.3, whether to withhold payment of travelling and subsistence allowances during the suspension etc. of a councillor or co-optee;
  - (d) under paragraph 6.3, whether to require re-payment of an allowance from a councillor or co-optee in certain circumstances.
- 10.2 The Head of Paid Service shall have delegated power to permit claims to be paid outside the period referred to in paragraph 9.3.

**Schedule 1**  
**Basic Allowance**

Subject to paragraphs 2.2 and 2.3 of this Scheme, the amount of the basic allowance is £13,329

**Schedule 2**  
**Special Responsibility Allowances**

<b>Post</b>	<b>Nos.</b>	<b>SRA</b>
Leader of Council	1	£27,000.00
Deputy Leader	1	£18,090.00
Cabinet Members with Portfolio	6	£14,850.00
Business Chair of Council	1	£14,850.00
Deputy Business Chair of Council	1	£9,900.00
Chairs Scrutiny Committees	4	£12,150.00
Vice Chairs Scrutiny Committees	4	£5,467.00
Chair Strategic Planning Committee	1	£12,150.00
Vice Chair Strategic Planning Committees	1	£5,467.00
Chairs Local Area Councils	5	£10,800.00
Vice Chairs Local Area Councils	5	£3,645.00
Vice Chairs (Planning) Local Area Councils	5	£3,645.00
Rights of Way Committee Chair	1	£9,450.00
Rights of Way Committee Vice Chair	1	£5,467.00
Chair Licensing & Regulatory and Licensing Committees	1	£9,450.00
Vice Chair Licensing & Regulatory and Licensing Committees	1	£2,362.50
Chair of Audit Committee	1	£4,005.00
Vice Chair of Audit Committee	1	£1,350.00
Chair Pension Fund Panel	1	£4,005.00
Vice Chair Pension Fund Panel	1	£1,350.00
Chairs Cabinet Working Groups	37	£4,005.00
Vice Chairs Cabinet Working Groups	3	£1,350.00
Chairs Council Working Groups	2	£4,005.00
Vice Chairs Council Working Groups	2	£1,350.00
Major Opposition Group Leader	1	£12,150.00
Major Opposition Group Deputy Leader	1	£4,860.00

Other Opposition Group Deputy Leaders (with 7 Members)	0	£2,430.00
Civic Allowance for Civic Head	1	£5,400.00
Civic Allowance for Deputy Civic Head	1	£1,620.00
Group Secretaries SRA @ £15 per Group Member:	Group Secretaries not subject to 1-SRA only rule	

Independent Chair – Standards Committee	£2,700 pa
Independent Person – Standards Committee	£2,700 pa
Co-optees – Standards Committee	£ 500 pa
Independent Co-opted Members - Audit Committee	£1,000 pa

### **Schedule 3** **Dependants' Carers' Allowance**

The Northumberland County Council, in exercise of the powers conferred by the Local Government Act 1972, hereby makes the following scheme:-

1. This scheme provides for Members to be reimbursed their carers' costs when engaged on official County Council business, and may be cited as the Northumberland County Council Carers' Allowance Scheme. The scheme came into effect on 1st October 1998 and was reviewed by the Council on 4 December 2013.
2. This scheme applies to elected Members of Northumberland County Council.
3. The allowance is available in relation to all approved duties, and duties in respect of which travel and subsistence are paid.
4. The allowance is payable in respect of the cost of caring for children aged 14 and under, and in respect of dependent relatives who are suffering from illness or disability, and who the Occupational Health Service has confirmed require constant care.
5. In relation to relatives suffering from illness or disability, Members should contact the Head of Paid Service, who will engage the Occupational Health Service to carry out the necessary confirmation.
6. The allowance is not payable in respect of members of the Members' household who may be providing the care.
7. The allowance will be paid at up to £7.74 per hour for weekdays and £9.21 per hour for weekends, providing this does not exceed the actual costs incurred, and is inclusive of all travel costs of the carer. This rate equates to the current hourly rate for County Council Home Carers and the hourly rate should be increased at the same time and the same level as County Council Home Carers. The allowance is payable for the duration of the meeting, and for the reasonable travelling time of the Member before and after the meeting in relation to the care arrangements.
8. If a member has a second dependant then the DCA rate payable should be paid at 50% of the full claimable rate. For subsequent dependants the DCA rate payable should be paid at 25% of the full claimable rate.
8. Claims are to be made on the appropriate form, signed by both the Member and the carer, and should be made within one month of the date of the meeting in respect of which the entitlement to the allowance arises. Claim forms may be obtained from the Head of Paid Service.
9. Payments in relation to this scheme will be made on the same basis as those made for other Members' allowances.



## Schedule 4 Travelling Subsistence

### 1. Mileage Rates

The following Inland Revenue authorised mileage rates will apply from 1st November 2003 and will automatically be adjusted, in line with any variations made by the Inland Revenue.

#### Cars (all CC's)

45p per mile (first 10,000 miles)  
25p per mile (over 10,000 miles)  
5p per mile (each additional passenger)

#### Motor Cycles

24p per mile

#### Bicycles

20p per mile

Journeys by car in excess of 100 miles in each direction can only be made where they are more cost effective than using public transport or where public transport arrangements would be impractical.

### 2. Subsistence Rates

Entitlement to subsistence rates requires an absence from home of four hours or more. Breakfast allowance may only be claimed where the absence from home has commenced at least four hours before 11.00 a.m. i.e. from 7.00 a.m. or before. In addition, absences must include the period shown in brackets for the relevant meal claimed.

The following subsistence rates will apply and will automatically be adjusted, in line with annual RPI increases.

Breakfast	£5.28 (before 11a.m.)
Lunch	£7.26 (12 noon and 2 p.m.)
Tea	£2.86 (3 p.m. and 6 p.m.)
Dinner	£8.99 (after 7 p.m.)
Overnight (outside London)	£103.20
Overnight (inside London)	£117.69

These rates represent the maximum rates payable. They do not imply an automatic entitlement to claim at that level. Where actual expenditure incurred is lower than the relevant subsistence rates in this Schedule, reimbursement will be made at the lower

level. Receipts must accompany all claims.

The guidance notes, which supplement this scheme, set out the procedure for undertaking foreign travel and for claiming out of pocket expenses.

### **3. Parish and Town Councils**

The Independent Review Panel recommended that parish and town councillors should be paid at the same rates and conditions that apply to the new unitary council, namely mileage rates at HMRC rates and subsistence rates based on the Northumberland unitary subsistence scheme (2009/10)

**Schedule 5**  
**Approved Duty for Dependents' Carers' Allowance and Travel and Subsistence Allowance**

Approved duties for the purpose of the payment of Dependents' Carers' allowance and travel and subsistence allowance shall be:

1. The attendance at a meeting of the Council or of any committee or sub-committee of the Council, or of any other body to which the Council makes appointments or nominations, or of any committee or sub-committee of such a body.
2. The attendance at any other meeting, the holding of which is authorised by the Council, or a committee or sub-committee of the Council, or a joint committee of the Council and at least one other local council within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a 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 Council is a member. The attendance at a meeting of the Cabinet or a meeting of any of its committees, where the Council is operating executive arrangements and where a Member is invited to attend by an Cabinet Member, Chair of meeting, or Senior Officer, or is specified in a Members' role profile.
4. 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.
5. The performance of any duty in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.
6. The performance of any duty in connection with arrangements made by the Council 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).
7. The carrying out of any other duty approved by the Council, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the Council or of any of its committees or sub-committees.

Note 2 In relation to paragraph 8, the following will be classed as being approved duties:

- o the attendance at a meeting of a Working Group or Panel of the Council (provided that at least two political groups have been invited);
- o the attendance at site visits and inspections arranged by the Council;
- o the attendance at training activities arranged/approved by the Council, and

- o journeys not exceeding twenty four in a twelve month period, by backbench members in furtherance of consultations with Cabinet Members, other members and/or officers about matters within their electoral divisions (to include surgeries, trips to County Hall and other constituency business).
8. Members can claim mileage for attending parish council meetings within their division.

# PART 8

## Appendices

## APPENDIX 1

### The Universal Declaration of Human Rights

#### Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,  
The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason

and conscience and should act towards one another in a spirit of brotherhood.

## Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## Article 3

Everyone has the right to life, liberty and security of person.

## Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## Article 6

Everyone has the right to recognition everywhere as a person before the law.

## Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

## Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## Article 11

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

## Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

## Article 13

Everyone has the right to freedom of movement and residence within the borders of each State.

Everyone has the right to leave any country, including his own, and to return to his country.

## Article 14

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

## Article 15

Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## Article 16

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

Marriage shall be entered into only with the free and full consent of the intending spouses.

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

## Article 17

Everyone has the right to own property alone as well as in association with others.

No one shall be arbitrarily deprived of his property.

#### Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

#### Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

#### Article 20

Everyone has the right to freedom of peaceful assembly and association.  
No one may be compelled to belong to an association.

#### Article 21

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Everyone has the right to equal access to public service in his country.  
The will of the people shall be the basis of the council of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

#### Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

#### Article 23

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

## Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## Article 25

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## Article 26

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.

## Article 27

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

## Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

## Article 29

Everyone has duties to the community in which alone the free and full development of his personality is possible.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the

rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

#### Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## APPENDIX 2

### PETITIONS PROTOCOL

#### 1. Introduction

Northumberland County Council is committed to engaging with its citizens, getting closer to communities and improving services. We particularly welcome petitions as one way in which you can let us know your concerns or ideas. Petitions are commonly used to air an objection or service complaint. They can also be a positive measure. For example, residents or service users may request new facilities and in so doing become more involved in securing benefits for their communities. Even if residents do not get the exact result they want, petitioning ensures that their concerns are listened to and taken seriously.

#### 2. What is a petition?

- (i) We treat as a petition any communication which is signed by and sent to us on behalf of a minimum number of 50 individuals for local issues and 100 or more signatures for countywide / corporate issues.
- (ii) In the vast majority of cases, the issue will relate to something which is the responsibility of the Council or something over which it has some influence. Valid signatories will be limited to people who live, work, study or use services in Northumberland. There is no minimum age. Democratic Services publicise the procedure and can provide a standard form for petitioners to use; a copy is also available on the Council website. Petitioners can use their own format if they prefer.
- (iii) Where the petition is in paper form, each person must include their name, address (including postcode) and signature. If the Petitions Officer is not satisfied that these requirements have been met, the petition may be rejected. Only one signature is allowed per person per petition and people cannot sign on behalf of others. The Petitions Officer will need to be satisfied that petitions contain the minimum number of valid signatures before action is taken to respond. If the proposed petition contains less than the required number of valid signatures, the Petitions Officer will forward the document to the relevant head of service asking them to consider the request outwith the petitions process. This will not necessarily require action to be taken or a formal response provided unless the head of service agrees to do so.
- (iv) Electronic petitions may be submitted using the Council website. Petitioners should include their postcode, email address and indicate whether they live, work, study or use services in Northumberland. Only one signature is allowed per each individual email address. E-petitions can be open for signatures on the Council's website for two calendar months from first publication date, with the option to allow the lead petitioner to ask to keep it open longer, up to a maximum of six months. Petitions may include a combination of both paper and electronic signatures, using the e-petitioning service on the Council's website. The total number of electronic and paper signatures will be combined and recorded.

### **3. What else should a petition contain?**

The petition should include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take. In addition to the minimum number of signatures, a petition should include the name and contact details (including a postal or email address) of the “petition organiser” (or “lead petitioner”) to which correspondence about the petition can be sent. Due to the costs involved we cannot write to all the signatories on paper petitions, however e-petitioning enables updates to be emailed to everybody who signs.

### **4. Who should you send a petition to?**

Petitions should be addressed to The Petitions Officer, Democratic Services, Northumberland County Council, County Hall, Morpeth, Northumberland, NE61 2EF; or email scanned copies to [Petitions@northumberland.gov.uk](mailto:Petitions@northumberland.gov.uk). The Petitions Officer will lead in the administration of petitions.

### **5. Types of Petition**

How we deal with a petition depends on the subject matter of a petition submitted:

- (i) If the petition concerns a local issue, it will be considered by the relevant Local Area Council responsible for the local area.
- (ii) If the petition concerns a policy or county-wide issue, it will be considered by the Petitions Committee. (Some issues might have a local element, for example a school closure or repair works to a school, but if the decision requires a Cabinet decision, or will incur other significant expenditure, it will qualify as a Petitions Committee issue. Any such judgements will be taken by the Petitions Officer in discussion with the Petitions Committee Chair.)
- (iii) Petitions responding to consultation on licensing, planning applications or rights of way matters will be considered by the relevant Planning Committee Rights of Way Committee or Licensing Hearing when they consider the applications in question. In such cases, a petition is classed as one written representation.
- (iv) Petitions responding to other consultation processes initiated by the County Council will be reported to the Committee responsible for making a decision on the matter in question and will be considered alongside the other letters of representation and correspondence received. In this way, petitions feed into the established consultation processes. If a petition is received after a consultation has closed but before the issue in question has gone to the Committee, it should be accepted as another response. Consultation petitions will not automatically require a response to be produced for a Local Area Council or Petitions Committee. If a request is made for one of these Committees to discuss a consultation petition due to exceptional circumstances, this decision will be at the discretion of the respective Committee Chair. This will not include planning or licensing applications. If the issue being petitioned about concerns a decision delegated to officers, the petition will be reported to the officer responsible amongst the other representations received. The named officer is responsible for the final decision.

(v) Where a petition is submitted arising from a specific statute of Parliament, it will be reported to the next meeting of the Petitions Committee. It may need to be referred as part of a report to full Council later, but only if it requires a change in the Council's policy framework, budget or constitution.

## **6. What happens when a petition is received?**

- (i) Petitions should be submitted to Democratic Services officers at committee meetings, or presented in person, posted or emailed to Democratic Services. A response to a petition will not be organised until Democratic Services have received a hand written petition, or they have been notified directly that an e-petition has closed for signatures. If officers in other service areas receive petitions (excluding ones about licensing and planning applications), they should redirect them to Democratic Services immediately.
- (ii) Local Area Councils have a permanent item on their agendas for both the receipt of and the reporting of petitions. If a petition is handed in at a Local Area Council meeting the petition organiser can introduce it for five minutes, but the Committee cannot debate the issue until an officer report has been produced for a future meeting (petition organisers are advised that there will likely be a minimum of three weeks between a petition being handed in and a report on it being considered at a meeting). The local county councillor may be given a brief opportunity to speak after the lead petitioner has introduced their petition, but this is at the discretion of the Committee Chair. The Petitions Committee meets quarterly; any additional meetings will be organised if it is essential that any petitions need to be considered urgently, subject to the agreement of the Committee Chair.
- (iii) After the petitioner has introduced the petition at the Local Area Council meeting, the petition should then be passed to the Democratic Services Officer present, who will refer it to the Petitions Officer without any further discussion. If it is subsequently judged to be an invalid petition, this will be dealt with outside of the meeting (see section 10 of this protocol).
- (iv) If the petition meets the required criteria for acceptance, the Petitions Officer will ask officers (in the service area responsible) to produce a report responding to the issues raised. This should ideally be considered at the next available meeting of the appropriate committee. Where it is necessary to undertake a significant amount of work to investigate the issue and/or collect information, the issue will be considered at a later meeting instead. If there are other exceptional reasons why the consideration of a petition might be delayed, this should be agreed with the respective Committee Chair.
- (v) The Petitions Officer will also send a copy of any petitions about local issues for information/comment to the relevant ward councillor/s, portfolio holder, Local Area Council chair and the local parish/town council. Countywide and corporate issues are sent to the portfolio holder and Petitions Committee chair.

## **7. Notifications to the petition organiser before the meeting**

- (i) The petition organiser will be advised by the Petitions Officer, within seven working days of receipt by the authority, which meeting will consider a report on the petition, the date, time and place of the meeting at which it will be considered, and that they may address the meeting for up to five minutes. If at the time of receipt it can't be confirmed which meeting the petition will be considered at, it will be acknowledged and the petition organiser written to again when details of the meeting are confirmed.

(ii) A week in advance of the meeting, the petitions officer will send a copy of the report to the lead petitioner for their information and ask them to confirm whether they wish to attend.

## **8. Procedure to be followed at the Local Area Council or Petitions Committee meeting**

(i) The petitioners may present their petition at either the Local Area Council or Petitions Committee in person and speak about the matter for a maximum of five minutes. The Chair may curtail a petitioner's speech in exceptional circumstances if the petitioner is disclosing information that should not be heard in public as defined by the Access to Information Act. Petitions will be considered in the order in which they were received, unless the Chair determines otherwise. The time taken by the Committee to discuss reports on petitions will be at the Chair's discretion.

(ii) The Chair will firstly invite the lead petitioner to speak. Committee members may then ask questions of the lead petitioner. The Chair will then invite a relevant officer(s) to respond, after which the matter will be open for debate among members. The Local Area Council or the Petitions Committee will decide on the appropriate action to take in respect of the petition. This may involve making recommendations to full Council, Cabinet or a regulatory Committee, or to officers.

(iii) There may be limited circumstances following a petition being considered by either a Local Area Council or Petitions Committee, whereby the issue in question is referred for further consideration to another committee. For example, if a local issue is considered by a Local Area Council following which corporate or budgetary implications arise, it may then be referred on to the Petitions Committee. Any such possible further referrals will be at the discretion of the Business Chair or Council Leader.

## **9. Required actions following the meeting**

(i) After the meeting, the Petitions Officer will notify the lead petitioner of the decision by sending an extract from the draft minutes on the matter.

(ii) The lead petitioner will also be advised to contact the Petitions Officer for any further updates, particularly if they have petitioned about an issue which needs longer term action/investigation. The responsibility for the action in response to the petition lies with the council service which is responsible for the subject matter of the petition.

(iii) There is no right of appeal to another committee. If a petition organiser is dissatisfied with how their petition has been handled, they should resort to the corporate complaints process.

## **10. Petitions that will be rejected / for which a report will not be produced**

### **a) Issues not within the remit of Northumberland County Council**

Where a petition relates to a matter which is within the responsibility of another public authority or organisation, the petition officer will suggest redirection of the petition to that other authority. A report will not be produced. However, if the Petitions Officer considers it appropriate, the committee responsible for considering petitions may consider making representations to another authority on the petitioner's behalf. It may also consider the petition if it is felt to be an important local issue. This will be at the discretion of the Chair of the respective committee.

### **b) Duplicate petitions**

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser. However, the right for more than one lead petitioner to address the relevant meeting will be at the Chair's discretion.

### **c) Repeat petitions**

A petition will not normally be considered by a Local Area Council or the Petitions Committee if it is received within twelve months of the meeting where another petition on the same matter was considered. In such cases, the petition will be reported for information to the relevant head of service.

### **d) Rejected Petitions**

Petitions will not be reported if in the opinion of the Petitions Officer, they are offensive or use other inappropriate language which might offend, include false or defamatory statements, are commercially sensitive or disclose confidential material, include complaints about individuals whether employed by the authority or not, or include issues which are the subject of judicial proceedings. If a petition is subsequently rejected following its presentation, the Committee Chair and ward member will be advised as to why it is not being considered.

### **e) Requests with less than 50 signatures**

By definition, communications which include less than 50 signatures are not petitions so will not be dealt with through this procedure. The Petitions Officer will treat any such correspondence as a 'written request' which will in the first instance be sent to the respective head of service for their attention. Such requests may also be progressed through other means such as discussion with the local elected member or the responsible portfolio holder.

### **f) Late Petitions**

If a petition is received whose subject matter relates to a decision imminently due to be taken by the Council, and the subject matter would usually require consideration by the Petitions Committee or Local Area Council, reference will be made to the petition at the committee meeting taking the respective decision. If it is an officer decision, details of the petition will be reported to the officer responsible.

**g) Insufficient detail included on paper petitions**

Petitions must include the details required detailed in 2 (ii) and (iii) above. If the petitions officer is not satisfied that these requirements have been met, the petition may be rejected.

**h) Petitions about Planning and Licensing Applications**

These must be treated separately and will be reported direct to the planning and licensing committees where applications are considered.

**11. Action taken on rejected petitions**

Where the petition is not accepted for consideration, the Petitions Officer will advise the petition organiser, local councillor and Local Area Council / Petitions Committee Chair of the rejection and the grounds for it.

# **Appendix 3**

## **Access to Information Rules of Procedure**

### **1. Scope**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees, the Standards Committee and regulatory committees and public meetings of the Cabinet (together called meetings).

### **2. Additional rights to information**

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

### **3. Rights to attend meetings**

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

### **4. Notices of meeting**

The council will give at least five clear days' notice of any meeting by posting details of the meeting on its website and at County Hall, Morpeth [the designated office] except for those that are lawfully called at less than five clear days' notice.

### **5. Access to agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Paid Service shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

Agenda and reports will also be published on the council's website.

Documents may be available in alternative formats/languages on request.

### **6. Supply of copies**

The Council will supply copies of:

- (1) any agenda and reports which are open to public inspection;
- (2) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- (5) if the Head of Paid Service 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.
- (6) A reasonable number of copies of the agenda and reports will be made available at the meeting.

## **7. Access to minutes etc after the meeting**

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

- (1) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (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;
- (3) the agenda for the meeting; and reports relating to items when the meeting was open to the public.

## **8. Background papers**

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

The Head of Paid Service 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:

- (1) disclose any facts or matters on which the report or an important part of the report is based; and
- (2) which have been relied on to a material extent in preparing the report,

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political adviser.

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

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

In relation to Executive Decisions the Council will make available on the Council’s website and at County Hall (at all reasonable hours) a copy of the background papers included within the list.

## **9. Summary of public's rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall, Morpeth.

## **10. Exclusion of access by the public to meetings**

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

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

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

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Any resolution to exclude the public due to the disclosure of exempt information must identify the part of the proceedings to which it applies and the description of the exempt information to be used

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Section 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 Section 6.

### **10.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **10.4 Meaning of exempt information**

Exempt information means information falling within the following 10 categories (subject to any condition):

Descriptions of exempt information:

- (1) Information relating to any individual.
- (2) Information which is likely to reveal the identity of an individual.
- (3) Information relating to the financial or business affairs of any particular person (including the council holding that information).
- (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 office holders under, the council.

- (5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (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
  - (b) to make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- (8) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is 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.
- (9) Information is not exempt information if it relates to proposed development for which the local planning council may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (10) Information which—
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **11. Exclusion of access by the public to reports**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for

publication" together with the category of information likely to be disclosed.

## **12. Application of rules to the Cabinet**

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

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

## **13. Reporting of Cabinet proceedings**

While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

## **14. Procedure prior to a private meeting of the Cabinet**

14.1 Subject to 14.2 a decision by the Cabinet to hold a meeting, or part of a meeting, in private may not be taken unless:

- (a) a notice has been published in the Forward Plan at least 28 clear days before the meeting in question and made available on the council's website and at County Hall. This notice is to include a statement of the reasons for the meeting being held in private;
- (b) a further notice is included on the agenda and published on the council's website and at County Hall five clear days before the meeting. This notice is to include
  - i. a statement of the reasons for the meeting to be held in private
  - ii. details of any representations received by the Cabinet about why the meeting should be open to the public
  - iii. a statement of its responses to any such representations

14.2 If a matter has not been included in accordance with rule 14.1 then the decision to hold a meeting, or part of a meeting, in private may still be taken if the Cabinet obtains the agreement of the chairman of the relevant Overview and Scrutiny Committee (or in that person's absence the Business Chairman of the Council and the Chairman's absence the Deputy Business Chairman of the Council) that the meeting is urgent and cannot reasonably be deferred. As soon as it is reasonably practicable a notice will be published on the council's website and at County Hall setting out why the meeting is urgent and cannot be reasonably deferred.

## **15. Procedure before taking key decisions**

Subject to Rule 17 (general exception) and Rule 18 (special urgency), a key decision may not be taken unless:

- (1) a notice (called here a forward plan) has been published in connection with the matter in question;
- (2) the notice referred to in (1) has been available for public inspection at least 28 clear days on the Council's website and at County Hall; and
- (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 4 (notice of meetings).

## **16. The Forward Plan**

16.1 Forward Plans will be prepared to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

16.2 Contents of forward plan

The forward plan will contain matters which will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will give the following details

- (1) that a key decision is to be taken on behalf of the County Council and the matter in respect of which a decision is to be made;
- (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;
- (3) the date on which, or the period within which, the decision will be taken;
- (4) a list of the documents to be submitted to the decision taker for consideration
- (5) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed is available;
- (6) that other documents relevant to those matters may be submitted to the decision taker ; and
- (7) the procedure for requesting details of those documents (if any) as they become available.

The forward plan must be published on the Council's website and at County Hall at least 28 clear days before a decision is made.

**Confidential, exempt information or particulars of the advice of a political assistant need not be included in the forward plan.**

## **17. General exception**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 18 (special urgency), the decision may still be taken if:

- (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;
- (2) the Proper Officer has informed the chair of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (3) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (4) at least 5 clear days have elapsed since the Proper Officer complied with (2) and (3). Where such a decision is taken collectively, it must be taken in public.

## **18. Special urgency**

- 18.1 If by virtue of the date by which a decision must be taken Rule 17 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant Overview and Scrutiny Committee, or if the chair of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the chair of the Council, or in his/her absence the vice chair will suffice.
- 18.2 As soon as reasonably practicable after the decision maker had obtained this agreement the decision maker must publish a notice in the Forward Plan setting out the reasons that the meeting is urgent and cannot reasonably be deferred which must be made available at County Hall and on the Council's website.

## **19. Report to Council**

### **19.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (1) included in the forward plan; or
- (2) the subject of the general exception procedure; or
- (3) the subject of an agreement with a relevant Overview and Scrutiny Committee chair, or the Business chair/Deputy Business chair of the Council under Rule 18; 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 rests with the committee, but is also delegated to the Legal Services Manager, who shall require such a report on behalf of the committee when so requested by the chairman.  
Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

## 19.2 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 7 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.

## 19.3 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 18 (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.

## 20. Record of decisions

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Head of Paid Service or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record must include:

- (1) A record of the decision including the date it was made
- (2) A record of the reasons for the decision
- (3) Details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made
- (4) A record of any conflict of interest relating to the matter decided which is declared by any Member of the decision making body which made the decision; and
- (5) In respect of any declared conflict of interest, a note of any dispensation granted

## 21. Cabinet meetings relating to matters which are not key decisions

The Cabinet will hold all meetings in public except where exempt reports are to be

considered

## **22. Notice of meeting of the Cabinet**

Members of the Cabinet or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

Where a meeting is convened at shorter notice a copy of the agenda and associated reports will be open to inspection from the time the meeting is convened. If an item is added to the agenda later, the revised agenda and additional reports will be open to inspection from the time the item was added to the agenda.

## **23. Attendance at meetings of the Cabinet**

- (1) All members of the Council are entitled to attend all meetings of the Cabinet. Non Cabinet Members may be allowed to address meetings of the Cabinet with the Leader's approval in advance.
- (2) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer together with any Corporate Director who is submitting a report and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.

In all of the above examples, the provisions of Rule 20 (recording and publicising decisions) will apply.

## **24. Decisions by individual members of the Cabinet**

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

Where an individual member of the Cabinet 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 at least 5 clear days after receipt of that report.

### **24.2 Provision of copies of reports to Overview and Scrutiny Committees**

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

### **24.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet he/she will prepare, or instruct the relevant officers to prepare, a record of the decision, a statement including:

- (1) A record of the decision including the date when it was made
- (2) A record of the reasons for the decision
- (3) details of any alternative options considered and rejected by the Member when making the decision
- (4) a record of any conflict of interest declared by any Cabinet member who is consulted by the Member which relates to the decision; and
- (5) in respect of any declared conflict of interest, a note of any dispensation granted. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political adviser/assistant.

Any record prepared in accordance with this rule and any report considered by the officer and relevant to the decision will be available for public inspect at County Hall and the Council's website.

**25.** As soon as reasonably practicable after an officer has made a decision which is an executive decision (ie the responsibility of the Leader and Cabinet) a written statement will be prepared including;

- (a) A record of the decision including the date it was made
- (b) A record of the reasons for the decision
- (c) Details of any alternative options considered and rejected by the officer when making the decision;
- (d) A record of the any conflict of interest declared by a Cabinet member who is consulted by the officer which relates to the decision; and
- (e) In respect of any declared conflict of interest, a note of a dispensation granted by the council's head of paid service

Any record prepared in accordance with this rule and any report considered by the officer and relevant to the decision will be available for public inspection at County Hall and on the Council's website

Rule 25 does not apply to the day to day administrative or operational decisions taken by officer in connection with the discharge of functions which are the responsibility of the Leader and Cabinet

## **26. Overview and Scrutiny Committees' access to documents**

### **26.1 Rights to copies**

Subject to Rule 26.2 below, an Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (1) any business transacted at a meeting of the Cabinet or its committees; or
- (2) any decision taken by an individual member of the Cabinet or an officer of the Council in accordance with executive arrangements.

Subject to rule 26.2 below where a Member of an overview and scrutiny committee requests a document which falls within (1) or (2) above this must be provided by the Cabinet as soon as reasonably practicable and in any case no later than 10 clear days after the request is received by the Cabinet.

## 26.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (1) any document that is in draft form;
- (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
- (3) the advice of a political adviser/assistant.

Where it is determined by the Cabinet that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out above it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

## 27. Additional rights of access for members

27.1 Subject to 27.3 any document which is in the possession of or under the control of the Leader and Cabinet and contains material relating to any business transacted at a public meeting must be available for inspection by any Member of the Council at least five clear days before the meeting. Where the meeting is convened at shorter notice these documents must be available for inspection when the meeting is convened and where an item is added to the agenda at shorter notice the document must be available for inspection when the item is added to the agenda.

27.2 Subject to 27.3 any document which in the possession of, or under the control of the Leader and Cabinet and contains material relating to any business transacted at a private meeting or any decision made by an individual Member of the Cabinet or an officer in accordance with executive arrangements, must be available for inspection by any Member of the Council when the meeting concludes or immediately after the decision has been made and this must be within 24 hours.

27.3 Notwithstanding Rules 27 (1) and 27 (2) nothing in these Rules requires any document to be made available for inspection if it appears to the Proper Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 unless the document contains exempt information of a description falling within paragraph 3 of Schedule 12 to the Local Government Act 1972 as set out in Rule 10.4 (except to the extent that the information relates to any terms proposed or to be proposed by the or to the authority in the course of negotiations for a

contract) or paragraph 6.

24.3 Nothing in this Rule requires any document to be made available for inspection if it appears to the Proper Officer that it discloses the advice of a political assistant.

#### 24.4 Nature of rights

These rights of a member are additional to any other right he/she may have.

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