

# Constitution

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# **INTRODUCTION**

## **What is the Constitution?**

It is a document that has been agreed by the Council, which sets out how it operates, how decisions are made, and the procedures which it has to follow. The Council has to exercise all its powers and duties in accordance with the law and the Constitution.

The Constitution is part of the Council's Corporate Governance framework which defines the systems and processes by which the Council leads, directs and controls its functions and relates to its communities and partners.

## **What is its Purpose?**

The purpose of the Constitution is to set out how the Council conducts its business, how decisions are made and the procedures it has to follow so that it remains accountable to local people. Some of those procedures are required by law while others are a matter for the Council to determine.

## **Can it be amended?**

The Constitution can only be amended by all Members of the Council sitting together as Full Council, however, consequential amendments can be made by the Monitoring Officer of the Council (the Assistant Director Law and Governance).

## **How do I obtain or view a copy?**

The Constitution can be viewed or downloaded from the Council's website [www.darlington.gov.uk](http://www.darlington.gov.uk). Copies are also available on request from Democratic Services by telephoning (01325) 406444 or e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk).

If you require any further assistance or advice about the Constitution, please contact Democratic Services (01325) 406444 or e-mail [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk).

# SUMMARY AND EXPLANATION

## Introduction

1. The Council's Constitution is in five parts. This document is a summary and explanation of how the Council operates. We have tried to make it easy to read and as simple as possible.
2. Most of the rules in respect of how the Council operates are set out in the first part of the Constitution. The rules set out who makes the decisions about the Council's functions, when those decisions are taken and what procedures have to be followed.

## Composition of the Council

3. There are 50 Councillors on Darlington Borough Council and all 50 of them together comprise the Full Council and represent the 20 wards which make up the Borough.
4. The wards each have either two or three Councillors. The boundaries of the wards are reviewed from time to time by the Local Government Commission.
5. General information about the Councillors, the wards they represent and their addresses are available on the Council's website at [www.darlington.gov.uk](http://www.darlington.gov.uk) or by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk) or by telephoning (01325) 406444.

## Elections and Councillors' Length of Office

6. Once elected, a Councillor normally remains a Councillor for four years. This Council holds 'all out' elections, which means that every four years there is an election, in every ward, and all Councillors stand for election at the same time. If an election is held for more than one seat in a ward then electors have one vote for each vacant seat. The last elections in Darlington were held in May 2019 and the next ones will be held in May 2023.
7. If a Councillor stops being a Councillor during the four years, for any reason, then a by-election is held. Councillors elected at a by-election are elected for less than four years. They 'take over' the remaining four year period from the previous Councillor. When a Councillor's four years are up they can be re-elected.

8. To be able to vote in elections in the Borough of Darlington you need to be registered to vote. Every year we send a registration form to every house in Darlington, usually around the end of August. If you aren't sure if you're on the register you can contact Democratic Services by telephoning (01325) 406444 or by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk).

## **The Mayor**

9. The Mayor is appointed annually and is Darlington's first citizen. The Mayor is the figurehead of the Council at civic and ceremonial events. The Mayor also spends many hours each week representing the Council on official visits to groups and events – almost all in Darlington.
10. The Mayor has a few formal powers. For instance, the Mayor chairs the meetings of the Full Council. If the Council takes a vote and the number is equal then the Mayor has a second or 'casting' vote to overcome the deadlock.
11. Further details on the role and responsibilities of The Mayor are available on the Council's website [www.darlington.gov.uk](http://www.darlington.gov.uk), by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk) or by telephoning (01325) 406444.

## **The Leader**

12. The Leader is elected for a four-year term at the first full Council meeting following elections. The Leader will ordinarily serve a four-year term unless they resign or is removed during their four-year term of office following a majority vote of Council Members. The Leader :-
  - decides the size of Cabinet, a minimum of three and a maximum of nine Members;
  - appoints the Deputy Leader and the Cabinet, and allocates the Portfolios; and
  - can make most of the decisions on his/her own and is able to draw up the budget and new policies alone or with Cabinet.
13. A simple majority of Councillors can reject a proposal from the Leader/Cabinet. The Leader is able to delegate Executive functions to other Sub-Committees, individual Cabinet Members and Officers.

## **Roles and Functions of Councillors**

14. Councillors decide the Council's policies and priorities and represent their communities. They are democratically accountable to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The Council, acting as one body, has responsibility for certain activities including approving the Council's policy framework and budget, appointing the Cabinet and establishing committees and other arrangements to deliver the Council's business.
15. Further details of the roles and responsibilities of Members are available on the Council's website [www.darlington.gov.uk](http://www.darlington.gov.uk) or by e-mailing [democratic@darlington.gov.uk](mailto:democratic@darlington.gov.uk) or by telephoning (01325) 406444.

## **Code of Conduct**

16. Councillors are required to abide by a Code of Conduct, to ensure high standards of probity in the discharge of their responsibilities. The Monitoring Officer (the Assistant Director Law and Governance) is the Lead Officer for the Council in relation to Member standard issues, including the conduct of Members. The Council also has an Audit Committee which deals with Ethical issues.
17. Councillors also abide by a local protocol on Member and Officer Relations.

## **Councillors' Interests**

18. The Monitoring Officer keeps a register of Councillors financial and other interests – this includes things like the property they own and, if they are employed, who their employer is. You can inspect the register at the Town Hall or on the Council's website at [www.darlington.gov.uk](http://www.darlington.gov.uk). Councillors are responsible for making sure that their registration is up-to-date. Whenever a new Councillor is elected, the Monitoring Officer asks them to complete the registration and the Monitoring Officer will regularly remind Councillors to make sure that the information is up-to-date. It is a breach of the Council's Code of Conduct if a Councillor fails to keep their information up-to-date.

## **Members' Allowances**

19. Councillors are paid allowances linked to the level of responsibility they have within the Council. An Independent Remuneration Panel, which includes independent members of the public, reviews remuneration for Members and makes recommendations to Full Council on the level at which allowances should be set. The Full Council must take the recommendations of the Panel into consideration in taking a decision about allowances but are not bound by those recommendations. Further details are set out in Part 5 of the Constitution

## **Decision-Making**

20. All decisions of the Council are made in accordance with a number of principles, namely :- proportionality (i.e. the action must be proportionate to the desired outcome), due consultation and the taking of professional advice from Officers; respect for human rights; a presumption in favour of openness; clarity of aims and desired outcomes; and explaining what options were considered and giving the reasons for the decision.

## **Role of the Full Council**

21. There are four types of Council meeting, which shall be conducted in accordance with the Council Procedure Rules :-
  - the annual meeting;
  - ordinary meetings;
  - special meetings; and
  - extraordinary meetings.
22. The Full Council's role is to take decisions which it has not delegated to another Committee or Officer, in relation to Non-Executive (Council) functions. It cannot take decisions about Executive (Cabinet) functions. More information on the difference between an Executive and a Non-Executive function can be found in the Responsibilities for Functions Section.
23. The Full Council is responsible for setting the policy framework and budget. The policy framework consists of the most important plans and strategies adopted by the Council, and a list of these can again be found in the Responsibility for Functions Section. The Council can add plans and strategies to this list at any time.

24. An explanation of the budget and policy framework and the process by which it has to be developed is set out in more detail in the Budget and Policy Framework Procedure Rules.
25. The Council and the Executive (Cabinet) have each authorised Officers to make decisions and a list of these is set out in the Scheme of Delegation.

### **Role of the Cabinet**

26. Cabinet's role is to take decisions in relation to its functions and it operates in accordance with rules known as Cabinet Procedure Rules. More information about these functions can be found in the Responsibilities for Functions Section.
27. Although Executive power formally sits with the Leader who can exercise that power individually, in Darlington, Cabinet exercises the majority of its responsibilities collectively.

### **Overview and Scrutiny**

28. The Council has appointed a number of Scrutiny Committees, which review and challenge the decisions of Cabinet. An important part of their role is to review areas of the Council's business and recommend improvements to Cabinet.
29. Individual decisions can be called-in to one of the Scrutiny Committees to give it the chance to review the decision before the decision is implemented. The Scrutiny Committee does not have the power to take the decision itself – but it can ask Cabinet to reconsider.
30. Details of the individual Scrutiny Committees, their responsibility and how they operate can be found in the Scrutiny Procedure Rules. The Council's Procedure Rules, apply to Scrutiny Committees in the same way that they apply to all Council Committees.
31. Scrutiny Committees can receive requests to consider issues through Councillors. Further details on how this works in practice are set out in the Scrutiny Procedure Rules.



## Council Committees

32. The Council has created the following committees :-

- **Planning Applications Committee** - This makes decisions about planning applications for major proposals which might attract extensive public interest. There is a right for people to speak at these meetings and further details can be found in the Protocol for Councillors and Officers dealing with Planning Matters.
- **General Licensing Committee** - This makes decisions about the Council's many licensing functions. The Council also has a separate Licensing Committee which deals with decisions about Liquor Licensing. Applicants can speak at these meetings, and, in certain circumstances, formal objectors can also speak.
- **Members' Standards Hearing Committee** - This Committee hears complaints against Members (including Parish Councillors) which are referred to it by the Monitoring Officer.
- **Audit Committee** - This Committee deals with issues concerning internal control, risk management, financial reporting, treasury management, ethical values and accountability and provides a forum for discussion of matters raised by internal and external audit.
- **Human Resources Committee** - This Committee manages the Council's role as an employer. There are a number of panels which hear appeals and make appointments.

## Officer Decisions

33. The Council and the Leader have delegated some of its functions to Officers, and more information on these can be found in the Scheme of Delegation, as detailed in the Responsibility for Functions Section.

## Area Committees and Forums

34. The Council may appoint Area Committees and Forums. However, no Area Committees or Forums have been appointed.

## **Joint Arrangements**

35. This Council has established joint arrangements with other Councils, and further information on these arrangements can be found in the Responsibility for Functions Section.

## **Statutory Employees**

36. The Chief Executive is the Council's most senior officer with responsibility for leading the organisation to deliver the Council's objectives. The Chief Executive has the statutory role as the Head of Paid Service. The Chief Executive is responsible for the overall management of the Council's employees and makes reports about staffing issues to Full Council where appropriate.
37. The Monitoring Officer (the Assistant Director Law and Governance) as the Council's Chief Legal Officer is responsible for giving the Council and its Councillors legal advice about the business of the Council. This Officer must report to the Full Council if the Council is acting unlawfully or wrongly. The Monitoring Officer is also responsible for keeping the register of Councillors' interests, receiving complaints against Members' misconduct and determining whether such cases should be referred to the Members' Standard Hearing Committee for investigation.
38. The Chief Finance Officer (the Group Director of Operations (sometimes known as the Section 151 Officer) is responsible for the proper management and administration of the Council's financial affairs. This Officer must report to Full Council any decision or course of action that will involve incurring unlawful expenditure or an unbalanced budget.
39. The Democratic Manager is the Council's Statutory Scrutiny Officer. The Statutory Scrutiny Officer has responsibility for promoting and supporting the role of the Scrutiny Committees and providing Officers and Members with appropriate advice.
40. Further information on the Statutory and Proper Officer roles is set out in the Responsibility for Functions Section (Schedule 4 – Scheme of Delegation to Officers).
41. The rules about the appointment of Council employees are contained in the Council's Employment Procedure Rules, and the rules by which they must abide are set out in the Code of Conduct for Employees.

## **Financial and Contracts Matters**

42. The Council is responsible for significant amounts of public money which is received from Central Government or is raised locally through setting the Council Tax or for fees for a range of services. The Council is required to produce a set of Annual Accounts each financial year that are subject to rigorous external audit. As part of the Annual Accounts process, there is a set period for the public to inspect the accounts as well.
43. The Council has rules that govern the way in which goods, materials and services are procured to ensure value for money.
44. Full details of this can be found in the Council's Financial and Contract Procedure Rules.

## **Rights and Responsibilities of the Public**

45. The Council publishes much information about its services and about decisions that it is planning to take. The Council welcomes and positively encourages public involvement in the way in which it conducts its business. The majority of meetings and documents are accessible to the public and it is only for a small proportion of the Council's business that the public is excluded. Any decision to exclude the public is considered carefully and must meet specific criteria. More information on this can be found in the Access to Information Procedure Rules.
46. The public can photograph, film, record and blog at meetings. Further details are set out in the Access to Information Procedure Rules.
47. The Council produces a Forward Plan which contains advance notice of 'Key Decisions' to be made by Cabinet. Information about a key decision will be included on the forward plan 28 days before the decision is taken. More information about the requirements of the Forward Plan can be found in the Cabinet Procedure Rules.
48. Copies of agenda and reports for any meeting open to the public will be published on the website at least five clear working days before the meeting with copies available from Democratic Services. If an item is added to the agenda later, a supplementary agenda, together with any relevant report, will be available from the time the item was added to the agenda.

49. Agenda, reports and minutes of formal meetings will be stored for six years after the meeting and made available on request subject to any exemptions that may apply.
50. The Council also publishes a significant amount of information on its website (which comprises the Council's publication scheme). You can also make a freedom of information request see [freedomofinformation@darlington.gov.uk](mailto:freedomofinformation@darlington.gov.uk)
51. We also keep a number of registers which are open to public inspection. These include a record of the personal interests of all Councillors.
52. 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.
53. In summary, citizens have the right to :-
  - vote at local elections if they are registered;
  - contact their local Councillor about any matters of concern to them;
  - obtain a copy of the Constitution;
  - attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
  - petition to request a referendum on a Mayoral Form of Executive;
  - participate in the Council's question time;
  - contribute to investigations by Scrutiny Committees where determined as part of a Committee's line of inquiry;
  - 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;
  - attend meetings of the Cabinet where key decisions and other decisions are being discussed or decided and ask questions and make representations about items on the agenda;
  - see agendas, reports and background papers, and any record of decisions made by the Council, the Cabinet and Committees where these are not confidential;
  - complain to the Council if they think it has not followed its procedures properly (a copy of the Council's Corporate Complaints, Compliments and comments, Procedure is available at [https://www.darlington.gov.uk/media/3520/corporate\\_complaints\\_procedure-2020-final.pdf](https://www.darlington.gov.uk/media/3520/corporate_complaints_procedure-2020-final.pdf) or on request);

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they are encouraged to use the Council's own Corporate Complaints, Compliments and Comments Procedure first;
- complain if they have evidence which they think shows that a Councillor or a co-opted member with voting rights has not followed the Council's Code of Conduct for Members and Co-opted Members;
- inspect the Council's accounts fifteen working days prior to the start of each annual audit and make their views known to the external auditor;
- ask a Member to refer an issue to the relevant Scrutiny Committee for consideration. This is called Councillor Call for Action (CCfA). Details of how this operates are set out in the Scrutiny Procedure Rules; and
- submit a petition to the Council and to receive a response to the issues raised in that petition. Should the petition contain enough signatures it could trigger a debate at a Cabinet meeting.

If English is not your first language and you would like more information about this document, or if you require information in large print or braille or tape, please contact (01325) 406444.

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# RESPONSIBILITY FOR FUNCTIONS

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Delegation of Functions by the Executive

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Schedule 4 - Officers' Scheme of Delegation.

Schedule 5 - Appointments to Outside Bodies by Council and Cabinet.

## Responsibility for Functions

### GENERAL

1. All of the Council's functions are the responsibility of either :-
  - (a) Full Council; or
  - (b) The Executive (the Cabinet)

The Council operates a Leader and Cabinet model of Executive decision making. References to the Executive means the Leader and Cabinet.

2. Functions which are the responsibility of Full Council may be delegated to a Committee, a Sub-Committee, an Officer or another local authority.
3. The Council may also establish joint arrangements with one or more local authorities 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.
4. Functions which are the responsibility of the Executive may be delegated to a Committee of the Executive, an individual Member of the Executive (Cabinet), an Officer or another local authority. Any functions which may have been delegated to another Authority/Body are detailed in Schedule 2.
5. The Executive may also 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. Except as set out in paragraph 6 below, or as permitted or required by law, the Executive may only appoint Executive Members to such joint committees and those Members need not reflect the political balance of the Council as a whole. Any Joint arrangements which have been established are detailed in Schedule 2.
6. The Executive may appoint Members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Borough by area or population. In such cases, the Executive 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.

7. The law provides a framework under which :-
  - (a) some functions must not be the responsibility of the Executive;
  - (b) some functions must be the responsibility of the Executive; and
  - (c) some functions may or may not be the responsibility of the Executive.
8. The latter, (7(c)), are known as 'local choice functions', and it is a requirement that this Constitution sets out in detail who is responsible for them. A list of local choice functions is detailed at the end of this section.
9. Any reference in this part of the Constitution to any function, and any delegation of power includes all action associated with that function or power and all related enforcement action.
10. This part of the Constitution defines the respective responsibilities of the Council and the Executive, and explains the arrangements for delegation of these responsibilities.

### **FUNCTIONS OF THE FULL COUNCIL (i.e. functions which cannot be the responsibility of the Executive)**

11. In accordance with the procedures contained within the Budget and Policy Framework Procedure Rules and as detailed in this Part of the Constitution, the Council is responsible for the determination of :-
  - (a) the budget;
  - (b) the policy framework (see below); and
  - (c) the constitutional and related functions.
12. The Council Policy Framework comprises the following Plans and Strategies:-  
**Mandatory**  
Children and Young People Plan  
Corporate Plan  
Community Safety Plan  
Library Plan  
Licensing Authority Policy Statement  
Local Plan Core Strategy - plans and strategies that comprise the Development Plan  
Local Transport Plan

Medium Term Financial Plan  
Youth Justice Plan

**Discretionary**

Child Poverty Strategy  
Economic Strategy  
Environment Strategy  
Health and Well Being Strategy  
Housing Strategy  
Leisure Strategy (Sport and Physical Recreation)  
Organisational Development Strategy  
Transport Strategy  
Treasury Management Strategy

**DELEGATION OF FUNCTIONS BY THE COUNCIL**

13. The Council has delegated some of its functions to the Planning Applications Committee, Licensing Committees, the Member Standards Hearing Committee, the Audit Committee, the Appointments Committees/Appointments Panel and the Rights of Way Panel. Further details of these delegations can be found in the Schedule 1 of this Section.
14. The Council delegates to Officers, the non-executive functions which are contained in the Officers Delegation Scheme. Powers delegated to Officers by Council show 'Council' in the final column.
15. The delegation of these powers operates under Section 101 of the Local Government Act 1972 and all other powers enabling the Council.
16. The non-executive powers delegated to Officers are set out in the Officers Delegation Scheme.
17. Insofar as the making of appointments to outside bodies is a function of Full Council, the Council agrees that those appointments should be made as set out in Schedule 5 of this Section.

**FUNCTIONS OF THE EXECUTIVE**

18. All other functions are the responsibility of the Executive and are not to be discharged (or delegated) by the Council.
19. The Executive (directly or by delegating its powers as described below) has the following functions and responsibilities :-

- (a) proposing the budget to Full Council, including preparation of estimates and the amount of the proposed precept, and any reconsideration or revision of those estimates and amounts;
  - (b) proposing to Full Council new policies (or amendments to existing policies) which fall within the Policy Framework;
  - (c) adopting on behalf of the Council any plans or strategies which do not form part of the Policy Framework;
  - (d) implementing and delivering the agreed budget and Policy Framework (within the discretions agreed for the time being by Council);
  - (e) taking all decisions other than those referred to in paragraph 2 above;
  - (f) responsibility for local choice functions to the extent indicated in the table below;
  - (g) discharging the Council's responsibilities as an employer for health and safety; and
  - (h) making appointments to outside bodies in connection with functions which are the responsibility of the Executive.
20. All plans and strategies falling within the policy framework shall be considered by the Executive, who shall recommend them to Full Council. However, it is for Full Council to :-
- (a) instruct the Executive to reconsider any draft plan or strategy;
  - (b) amend any draft plan or strategy submitted by the Executive;
  - (c) approve for public consultation proposals for alterations to, or the replacement of, the Development Plan;
  - (d) approve any plan or strategy for submission to government (where required); and
  - (e) adopt any plan or strategy with or without modification.

Apart from the above, all functions in relation to developing plans and strategies falling within the policy framework shall be performed by the

Executive.

21. The function of amending, modifying, varying or revoking any plan or strategy falling within the policy framework shall be performed by the Executive :-

- (a) if it is required for giving effect to governmental requirement; or
- (b) if it was authorised by Full Council when approving or adopting the plan or strategy;

but otherwise that function shall be performed by the Council.

## **DELEGATION OF FUNCTIONS BY THE EXECUTIVE**

22. The delegation of functions by the Executive is set out in Schedule 2 to this Part of the Constitution. Delegations of Executive powers are made under Section 15 of the Local Government Act 2000.

## **TABLE: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

23. The law provides a framework under which :-

- (a) some functions must be the responsibility of the Executive;
- (b) some functions must not be the responsibility of the Executive;
- and
- (c) some functions may or may not be the responsibility of the Executive.

The latter are known as 'local choice functions', and it is a requirement that this Constitution sets out in detail who is responsible for them.

<b>Function</b>	<b>Responsibility</b>	<b>Delegation</b>
1. Any function under a local Act other than a function which is specified must not be an Executive function.	Cabinet	The Chief Executive shall decide which is the most appropriate body as, and when, the need arises.
2. The determination of an appeal against any decision made by or on behalf of the Authority or any complaint made against the authority	Council  Cabinet	Human Resource Panel in relation to employee matters.  Cabinet in respect of all other matters.
3. The making of arrangements for appeals against the exclusion of pupils from maintained schools.	Council	Assistant Director Law and Governance
4. The making of arrangements for School Admission Appeals.	Council	Assistant Director Law and Governance
5. The making of arrangements for appeals by governors against the authority's decision to admit a child who has previously been excluded.	Council	Assistant Director Law and Governance
6. The making of arrangements for enabling questions to be put to the Police, Crime and Victims Commissioner on the discharge of policing functions.	Council	Assistant Director Law and Governance
7. The making of appointments to the Police and Crime Panel.	Council	Council

<b>Function</b>	<b>Responsibility</b>	<b>Delegation</b>
<p>8. (1) Matters relating to the serving and enforcing of notices in the discharge of functions relating to contaminated land.</p> <p>(2) Any matter relating to contaminated land except (1) above.</p>	Cabinet	Cabinet or the Group Director of Services in accordance with the Officers Scheme of Delegation.
<p>9. The discharge of any function relating to the control of pollution or the management of air quality.</p>	Cabinet	Cabinet or the Group Director of Services in accordance with the Officers Scheme of Delegation.
<p>10. The service of an abatement notice in respect of a statutory notice.</p>	Cabinet	Group Director of Services in accordance with the Officers Scheme of Delegation.
<p>11. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.</p>	Cabinet	Cabinet
<p>12. The inspection of the authority's area to detect a statutory nuisance.</p>	Cabinet	Group Director Services in accordance with the Officers Scheme of Delegation.
<p>13. The investigation of any complaint as to the existence of a statutory nuisance.</p>	Cabinet	Group Director of Services in accordance with the Officers Scheme of Delegation.

<b>Function</b>	<b>Responsibility</b>	<b>Delegation</b>
14. The obtaining of particulars of persons interested in land under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet	Group Director of Services in accordance with the Officers Scheme of Delegation.
15. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet	Group Director of Services in accordance with the Officers Scheme of Delegation.
16. The making of agreements for the execution of highways works.	Cabinet	Group Director of Services in accordance with the Officers Scheme of Delegation.
17. The investigation of any complaint against Members in accordance with Section 28 of the Localism Act 2011 and the determination of whether the matter should be referred to the Member Standards Hearing Committee.	Council	Assistant Director Law and Governance

<b>Function</b>	<b>Responsibility</b>	<b>Delegation</b>
<p>18. The appointment of any individual -</p> <p>(a) To any office other than an office in which he is employed by the authority.</p> <p>(b) To any body other than -</p> <p style="padding-left: 40px;">(i) the authority;</p> <p style="padding-left: 40px;">(ii) a joint committee of two or more authorities; or</p> <p>(c) To any committee or sub-committee of such a body and the revocation of any such appointment.</p>	Cabinet	Chief Executive
<p>19. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	Cabinet	Chief Executive

## **DELEGATION OF FUNCTIONS BY THE EXECUTIVE**

24. The delegation of functions by the Executive is set out in Schedule 2 of this Part of the Constitution. Delegations of Executive powers are under S15 Local Government Act 2000.

## **TEES VALLEY COMBINED AUTHORITY**

25. On 1 April, 2016, the Tees Valley Combined Authority Order 2016 established a Combined Authority for the combined area of the constituent councils (Darlington; Hartlepool; Middlesbrough; Redcar and Cleveland and Stockton-on-Tees). The Combined Authority has taken on responsibility for some functions from central government for



transport, infrastructure, skills, business investment, housing culture and tourism. It also has some transport functions delegated from the five constituent Councils.

26. The Combined Authority is led by an elected Mayor who chairs a Cabinet comprised of the Leaders (in the case of Middlesbrough Council the elected Mayor) of the five Tees Valley Councils.
27. Further information about the Combined Authority is available from the website <https://teesvalley-ca.gov.uk/>

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## **SCHEDULE 1**

Council Committees; their membership and their powers.

1. Council
2. Planning Applications Committee
3. General Licensing Committee
4. General Licensing Sub-Committee
5. Licensing Act 2003 Committee
6. Licensing Act 2003 Sub-Committee
7. Member Standards Hearing Committee
8. Audit Committee
9. Human Resources Committee
10. Human Resources Chief Officers Appointments Panel  
(Sub-Committee)
11. Human Resources Panel (sitting as an Appointments Panel)  
(Sub-Committee)
12. Human Resources Panel (Sitting as JCC and Appeals Committee)  
(Sub-Committee)
13. Human Resources Advisory Panel
14. Rights of Way Panel
15. Local Authority School Governors Appointments Committee
16. Health and Well Being Board

## FULL COUNCIL

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b> All 50 Members of the Council	
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	50
<b>QUORUM –</b>	13

### **FUNCTIONS**

Only the Full Council will exercise the following functions :-

adopting and changing the Constitution;

approving or adopting the policy framework upon recommendations from Cabinet, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

approving the strategic financing of the Council, including :-

- determination of the Financial Strategy
- approval of the Revenue Budget
- approval of the Capital Programme
- setting the Council Tax Base
- setting the Council Tax
- annual determination of fees, charges and rents; and
- utilisation of reserves.

subject to the urgency procedure, contained in the Access to Information Procedure Rules, as detailed in this Constitution, making decisions about any matter in the discharge of a Cabinet 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;

appointing the Leader for a four year term of office;

power to remove the Leader before expiry of term of office;

agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;

receiving reports from the Cabinet and the Scrutiny Committees;

appointing representatives to outside bodies, unless the appointment is a Cabinet function;

adopting the Members' Allowances Scheme under Part 5 of this Constitution;

changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;

confirming the appointment of the Head of Paid Service;

approving the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer;

making, amending, revoking, re-enacting or adopting Byelaws and promoting or opposing the making of local legislation or personal bills;

election functions, including electoral, boundary and parish issues;

all local choice functions, as set out in this Constitution, which the Council decides should be undertaken by itself rather than the Cabinet;

all other matters which, by law, must be reserved to Full Council, such as the Code of Conduct for Members and Co-opted Members; and

maintaining the table of Local Choice Functions.

## **PROTOCOLS**

The Mayor will be elected by the Council annually and will have the following responsibilities :-

to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

to preside 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;

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 or hold Committee Chairs, are able to hold the Cabinet and Committee Chairs to account;

to promote public involvement in the Council's activities;

to be the conscience of the Council and to uphold high standards of ethics and probity within the work of the Council; and

to attend such civic and ceremonial functions as the Council and he/she determines appropriate and to participate in activities and events that promote the Borough and benefit the status and traditions of the role.

## PLANNING APPLICATIONS COMMITTEE

<b>MEMBERSHIP</b>	
DARLINGTON BOROUGH COUNCIL 7 Labour Group Members, 4 Conservative Group Members, 2 Green Group Members and 1 Liberal Democrat Group Member	7 x 4 x 2 x 1
OTHER MEMBERS	
TOTAL MEMBERSHIP –	14
QUORUM –	4

### PROTOCOLS

Cabinet Members cannot be appointed as Chair or Vice-Chair of the Planning Applications Committee.

### TERMS OF REFERENCE

To exercise functions relating to Town and Country Planning and Development Control (as set out in Part A, Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No. 2853, as amended).

## GENERAL LICENSING COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  6 Labour Group Members, 4 Conservative Group Members, 2 Green Group Members, 1 Liberal Democrat Group Member and 1 Independent Member	6 x 4 x 2 x 1 x 1
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	<b>14</b>
<b>QUORUM –</b>	<b>4</b>

### **PROTOCOLS**

Cabinet Members cannot be appointed as Chair or Vice-Chair of the Licensing Committee

### **TERMS OF REFERENCE**

To exercise functions relating to Licensing and registration functions (as set out in Part B, Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853), as amended.



## GENERAL LICENSING SUB-COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  5 Members to be drawn from the General Licensing Committee	
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	5
<b>QUORUM –</b>	4

### **PROTOCOLS**

Cabinet Members cannot be appointed as Chair or Vice-Chair of the Licensing Committee

### **TERMS OF REFERENCE**

To exercise functions relating to Licensing and registration functions (as set out in Part B, Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853), as amended.

## LICENSING ACT 2003 COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  6 Labour Group Members, 4 Conservative Group Members, 2 Green Group Members, 1 Liberal Democrat Group Member and 1 Independent Member	6 x 4 x 2 x 1 x 1
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	14
<b>QUORUM –</b>	4

### **PROTOCOLS**

Cabinet Members cannot be appointed as Chair or Vice-Chair of the Licensing Committee

### **TERMS OF REFERENCE**

- (a) To exercise Licensing functions (operating under the Licensing Act 2003); and
- (b) Gambling Act 2005

## LICENSING ACT 2003 SUB-COMMITTEE

<b>MEMBERSHIP</b>	
DARLINGTON BOROUGH COUNCIL 3 Members to be drawn from the Licensing Act 2003 Sub-Committee	3
OTHER MEMBERS	
TOTAL MEMBERSHIP –	3
QUORUM –	3

### **PROTOCOLS**

Members are drawn from the Membership of the Licensing Act 2003 Committee

### **TERMS OF REFERENCE**

To deal with all contested applications.

## MEMBER STANDARDS HEARING COMMITTEE

<b>MEMBERSHIP</b>	
<p><b>DARLINGTON BOROUGH COUNCIL</b></p> <p>2 Labour Group Members, 2 Conservative Group Members and 1 Green Group Member</p>	<p>2 x 2 x 1 x 0</p> <p>The Hearing Committee shall be drawn from :-</p> <p>3 Darlington Borough Council Councillors for a Borough Councillor complaint</p> <p>2 Darlington Borough Council Councillors and 1 Parish Councillor for a Parish Councillor complaint.</p>
<p><b>CO-OPTED MEMBERS</b></p> <p>3 Parish Councillors</p>	<p>3</p>
<p><b>QUORUM –</b></p>	<p>3 Darlington Borough Council Councillors for a Borough Councillor complaint</p> <p>2 Darlington Borough Council Councillors and 1 Parish Councillor for a Parish Councillor complaint.</p>

To consider complaints against Members which are referred to it by the Monitoring Officer (Assistant Director Law and Governance).

To determine what sanction should be applied and what form the sanction should take in cases of a breach of the Code of Conduct.

## **PROTOCOLS**

The Committee has certain powers to make findings and sanction Members who may be in breach of the Code of Conduct for Members and Co-opted Members.

Investigations will be commenced, in appropriate cases, following the assessment of a complaint by the Monitoring Officer (Assistant Director Law and Governance).

The Committee receives guidance and support from the Monitoring Officer (Assistant Director Law and Governance) and may raise issues direct with that Officer.

Substitute Members are eligible to sit on this Committee, provided that at least 24 hours' notice in advance of a meeting has been given to the Assistant Director Law and Governance by the Member who wishes to appoint a substitute. In unforeseen circumstances, a shorter period of notice can be given. The notice should indicate the name of the substitute Member.

## AUDIT COMMITTEE

<b>MEMBERSHIP</b>	
<p>DARLINGTON BOROUGH COUNCIL</p> <p>3 Labour Group Members, 2 Conservative Group Members and 1 Green Group Member</p>	<p>3 x 2 x 1 x 0</p>
<p>TOTAL MEMBERSHIP –</p>	<p>6</p>
<p>QUORUM –</p>	<p>2</p>

### PROTOCOLS

The membership of the Audit Committee shall be restricted to two Members from the Executive (Cabinet) and Scrutiny and the Chair shall not be a Member of the Executive (Cabinet).

### STATEMENT OF PURPOSE

The Audit Committee is a key component of corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Audit Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

## **GOVERNANCE, RISK AND CONTROL**

To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.

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.

To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

To monitor the effective development and operation of risk management in the Council.

To monitor progress in addressing risk-related issues reported to the Committee.

To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.

To monitor the counter-fraud strategy, actions and resources.

## **INTERNAL AUDIT**

To approve the internal audit charter.

To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

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.

To approve significant interim changes to the risk-based internal audit plan and resource requirements.

To make appropriate enquiries of both management and the Chief Audit Executive to determine if there are any inappropriate scope or resource limitations.

To consider reports from the Chief Audit Executive on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

- Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
- Regular reports on the results of the Quality Assurance and Improvement Programme.
- 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 non-conformance is significant enough that it must be included in the Annual Governance Statement.

To consider the Chief Audit Executive's annual report : -

- 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.
- 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.

To consider summaries of specific internal audit reports as requested.

To receive reports outlining the action taken where the Chief Audit Executive 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.



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.

To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, as required by the Accounts and Audit Regulations.

To support the development of effective communication with the head of internal audit.

## **EXTERNAL AUDIT**

To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

To consider specific reports as agreed with the external auditor.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

To commission work from internal and external audit.

To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

## **FINANCIAL REPORTING**

To review the annual statement of accounts prior to approval. 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.

To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## **TREASURY MANAGEMENT**

To examine effectively the treasury management strategy, policies and performance and recommend approval or otherwise by Council, via Cabinet.

## **ETHICAL VALUES**

To be satisfied that there are arrangements in place to discharge the Council's responsibility to promote and maintain high standards of conduct.

To review the effectiveness of the Council's whistleblowing arrangements.

## **ACCOUNTABILITY ARRANGEMENTS**

To report to full council on a regular basis on the Committee's performance in relation to its terms of reference and the effectiveness of the Committee in meeting its purpose.

## HUMAN RESOURCES COMMITTEE

<b>MEMBERSHIP</b>	
<p><b>DARLINGTON BOROUGH COUNCIL</b></p> <p>5 Labour Group Members, 3 Conservative Group Members, 1 Green Group Member, 1 Liberal Democrat Group Member and 1 Independent Member</p>	<p>5 x 3 x 1 x 1 x 1</p>
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	11
<b>QUORUM –</b>	4

### **PROTOCOLS**

The membership shall include :-

Leader of the Council  
 Deputy Leader of the Council  
 Cabinet Member with Stronger Communities Portfolio  
 Cabinet Member with Economy Portfolio

Substitute Members are eligible to sit on this Committee, provided that at least 24 hours notice in advance of a meeting has been given to the Proper Officer (Assistant Director Law and Governance) by the Member who wishes to appoint a substitute. In unforeseen circumstances, a shorter period of notice can be given. The notice should indicate the name of the substitute Member.

### **TERMS OF REFERENCE**

To undertake the interview and appoint process for the Chief Executive (Head of Paid Service) and to make recommendation to Full Council thereon.

To hear and determine disciplinary issues warranting the dismissal of the Head of Paid Service (Chief Executive), the Chief Finance Officer (Group

Director of Operations) or the Monitoring Officer (Assistant Director Law and Governance) (taking account the views of the Human Resources Advisory Panel) (any decision to dismiss being referred to Full Council for confirmation).

## HUMAN RESOURCES CHIEF OFFICERS APPOINTMENTS PANEL

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  4 Labour Group Members, 2 Conservative Group Members, 1 Green Group Member and 1 Liberal Democrat Group Member	4 x 2 x 1 x 1
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	8
<b>QUORUM –</b>	3

### **PROTOCOLS**

This Panel is a Sub-Committee of the Human Resources Committee.

The membership shall include :-

Cabinet Member with Resources Portfolio  
 Chair of Economy and Resources Scrutiny Committee  
 Leader of the Council  
 Relevant Cabinet Member/Scrutiny Chair

Substitute Members are eligible to sit on this Panel, provided that at least 24 hours notice in advance of a meeting has been given to the Assistant Director Law and Governance by the Member who wishes to appoint a substitute. In unforeseen circumstances, a shorter period of notice can be given. The notice should indicate the name of the substitute Member.

## **TERMS OF REFERENCE**

Apart from the Head of Paid Service (Chief Executive), to interview and appoint all Directors and all statutory and non-statutory Chief Officer posts (the Chief Finance Officer (Group Director of Operations, Monitoring Officer (Assistant Director Law and Governance), Director of Public Health, Group Director of People and the Assistant Director (Education and Inclusion).

The Panel shall only make or approve the appointment where no well founded objection from any Members of the Cabinet have been received.

## HUMAN RESOURCES PANEL (SITTING AS AN APPOINTMENTS PANEL)

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  2 Labour Group Members, 2 Conservative Group Members and 1 Green Group Member	2 x 2 x 1 x 0
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	5
<b>QUORUM –</b>	3

### **PROTOCOLS**

This Panel is a Sub-Committee of the Human Resources Committee.

The membership shall include :-

The Leader of the Council  
 Cabinet Member with Resources Portfolio

Substitute Members are eligible to sit on this Panel, provided that at least 24 hours notice in advance of a meeting has been given to the Proper Officer (Assistant Director Law and Governance) by the Member who wishes to appoint a substitute. In unforeseen circumstances, a shorter period of notice can be given. The notice should indicate the name of the substitute Member.

### **TERMS OF REFERENCE**

To interview and appoint to Assistant Directors and other employees whose posts are Deputy Chief Officers.

The Panel shall only make or approve the appointment where no well founded objection from any Members of the Cabinet have been received.



## HUMAN RESOURCES PANEL (SITTING AS A JCC AND APPEALS COMMITTEE)

<b>MEMBERSHIP</b>	
<p><b>DARLINGTON BOROUGH COUNCIL</b></p> <p>2 Labour Group Members, 2 Conservative Group Members, and 1 Green Group Member</p>	<p>2 x 2 x 1 x 0</p>
<p><b>OTHER MEMBERS</b></p>	<p>When meeting to consider employee consultation issues with Trade Unions the membership shall include :-</p> <p>Employees – One representative per recognised Trade Union (i.e. UNISON, G.M.B., B.E.C.T.U., N.A.H.T., N.A.S.W.U.T., UNITE, ASCL, NEU, Community TU) for each 300 members or part thereof and the Chair of the Safety Representatives Co-ordinating Committee.</p> <p>Officers – Assistant Director, Resources; and a Chief Officer (or his/her representative) from each of the Council's Department.</p>
<p><b>TOTAL MEMBERSHIP –</b></p>	<p>5</p>
<p><b>QUORUM –</b></p>	<p>One quarter of the membership</p>

## **PROTOCOLS**

This Panel is a Sub-Committee of the Human Resources Committee.

The membership shall include :-

Cabinet Member with Resources Portfolio  
Chair of the Economy and Resources Scrutiny Committee

Substitute Members are eligible to sit on this Panel, provided that at least 24 hours notice in advance of a meeting has been given to the Assistant Director, Law and Governance by the Member who wishes to appoint a substitute. In unforeseen circumstances, a shorter period of notice can be given. The notice should indicate the name of the substitute Member.

When sitting as a Joint Consultative Committee, the Chair shall alternate on an annual basis between the Union Side and the Council.

## **TERMS OF REFERENCE**

To consider appeals from employees in relation to human resource issues

In so far as it is specifically delegated appropriate employee consultations with recognised Trade Unions.

## HUMAN RESOURCES ADVISORY PANEL

<b>MEMBERSHIP</b>	
DARLINGTON BOROUGH COUNCIL	
OTHER MEMBERS	<p>Persons appointed by the Council as an Independent Person, pursuant to S.28(7) of the Localism Act 2011</p> <p>In the advent of insufficient numbers to make a quorum, Independent Persons from other Local Authorities (from the Tees Valley or region) may be invited to sit on the Panel</p>
TOTAL MEMBERSHIP –	3
QUORUM –	2

### PROTOCOLS

The membership shall include :-

Persons appointed by the Council to carry out the role of ‘Independent Person’ pursuant to S.28(7) of the Localism Act 2011.

Should there be insufficient numbers to reach quorum, then persons appointed as Independent Persons by other Local Authorities (from the Tees Valley or region) may be invited to sit on this Panel.

### TERMS OF REFERENCE

To act as an advisory panel to the Council in respect of any recommendation that is made to dismiss an officer designated as the Council’s Head of Paid Service (Chief Executive), the Chief Finance Officer (Group Director of Operations) or the Monitoring Officer (Assistant Director Law and Governance).

## RIGHTS OF WAY PANEL

<b>MEMBERSHIP</b>	
DARLINGTON BOROUGH COUNCIL 2 Labour Group Members and 1 Conservative Group Member	2 x 1 x 0 x 0
OTHER MEMBERS	
TOTAL MEMBERSHIP –	3
QUORUM –	2

### PROTOCOLS

The membership shall not include a Member of the Cabinet.

### TERMS OF REFERENCE

To carry out the powers and duties of the Council in relation to Definitive Map Modifications Orders.

## LA SCHOOL GOVERNORS APPOINTMENTS COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  2 Labour Group Members, 1 Conservative Group Member and 1 Green Group Member	2 x 1 x 1 x 0
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	4
<b>QUORUM –</b>	2

### **PROTOCOLS**

The Chair shall be the Cabinet Member with Children and Young People Portfolio

Substitute Members are eligible to sit on this Panel, provided that at least 24 hours notice in advance of a meeting has been given to the Assistant Director Law and Governance by the Member who wishes to appoint a substitute. In unforeseen circumstances, a shorter period of notice can be given. The notice should indicate the name of the substitute Member.

### **TERMS OF REFERENCE**

To appoint and dismiss Governors.

## HEALTH AND WELLBEING BOARD

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  2 Labour Group Members, 2 Conservative Group Members and 1 Green Group Member	2 x 2 x 1 x 0
<b>OTHER MEMBERS</b>	17
<b>TOTAL MEMBERSHIP –</b>	22
<b>QUORUM –</b>	

### **PROTOCOLS**

The membership shall include:-

- Leader of the Council
- Group Director of People, DBC
- Director of Public Health
- Cabinet Member Health and Housing Portfolio
- Two Conservative Group Members
- One Green Group Member
- Police, Crime and Victim Commissioner
- Chief Executive, Healthwatch Darlington
- Three Representatives, North East and North Cumbria Integrated Care Board
- Representative, County Durham and Darlington NHS Foundation Trust
- Representative, NHS England
- Representative, Tees, Esk and Wear Valleys NHS Foundation Trust

Representative, Darlington Primary Care Network  
Representative, Harrogate and District NHS Foundation Trust  
Representative, Voluntary and Community Sector  
Representative, Darlington Primary Schools  
Representative, Darlington Secondary Schools  
Representative, Darlington Post Sixteen Years  
Representative, School of Health and Life Sciences, Teesside University

The Health and Social Care Act 2012 states that following are the only statutory members of the Board and should a vote be taken, voting will be restricted to these categories :-

At least one Councillor  
Director of Public Health  
Group Director of People  
A representative of the North East and North Cumbria Integrated Care Board  
A representative of the Local HealthWatch organisation

## **TERMS OF REFERENCE**

The statutory functions of Health and Wellbeing Boards are to ensure that each area:-

- (a) encourages providers of Health and Social Care services to work in an integrated manner for the purpose of advancing the health and well being of the population; and
- (b) undertakes the Public Involvement functions that were previously outlined in the 2007 Health Act.

In addition to the above the Health and Wellbeing Board are required to:

- (a) develop a comprehensive Joint Strategic Needs Assessments (JSNA);
- (b) develop a robust Joint Health and Well Being Strategy; and
- (c) in preparing the Joint Health and Well Being Strategy, the responsible authority and each of its partner Clinical Commissioning Groups (CCGs) must consider the extent to which needs could be met more effectively by undertaking Section 75 of the NHS Act arrangements (joint commissioning).

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## **SCHEDULE 2**

### **CABINET**

Cabinet's Terms of Reference

Cabinet Portfolios

Delegation of Executive Functions

Executive Scheme of Members' Delegation

## CABINET

<b>MEMBERSHIP</b>	
DARLINGTON BOROUGH COUNCIL	8 Members
OTHER MEMBERS	0
TOTAL MEMBERSHIP –	8
QUORUM –	3

### **ROLE –**

Cabinet will carry out all of the Local Authority’s functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

### **Form and Composition -**

Cabinet consists of the Leader and Deputy Leader and a number of other Members appointed by the Leader.

The Leader will decide the size of the Cabinet and allocate the Portfolios below to each Cabinet Member :-

- Adults
- Children and Young People;
- Stronger Communities;
- Economy;
- Health and Housing;
- Resources;
- Local Services.

## Membership Protocols -

Cabinet Members cannot serve on Scrutiny Committees.

Cabinet Members cannot be the Mayor or Deputy Mayor.

Cabinet Members cannot be appointed as Chairs or Vice-Chairs on the Planning Applications or the Licensing Committees.

## Roles and Responsibilities –

The Cabinet is made up of the Leader, Deputy Leader and six other Members. It has seven functional portfolios and has the following responsibilities:-

PORTFOLIO	RESPONSIBILITY
<p><b>Collective Responsibilities</b></p>	<p>1. All Cabinet Members will have the general responsibility to ensure the effective management and delivery of services within their areas of responsibility, and within the following framework :-</p> <ul style="list-style-type: none"> <li>• the Council’s overall strategic, corporate and policy objectives;</li> <li>• the budgets set for the services and this Council’s Financial Procedure Rules; and</li> <li>• the Law and this Constitution.</li> </ul> <p>2. Collective responsibilities are :-</p> <p>(a) developing, co-ordinating, promoting and submitting proposals on this Council’s corporate strategies, policies, objectives and initiatives;</p> <p>(b) overseeing, developing, promoting and monitoring the performance of services provided directly by this Council within this Council’s approved budget and policy framework;</p> <p>(c) overseeing services provided by joint arrangements with other Councils and agencies;</p>

PORTFOLIO	RESPONSIBILITY
	<ul style="list-style-type: none"> <li data-bbox="587 271 1428 568">(d) promoting the interests of the Borough, its residents, businesses and other organisations and taking a community leadership role across the public, voluntary and business sectors, to develop working links with and to monitor the work of, bodies providing public services in the Borough;</li> <li data-bbox="587 613 1428 954">(e) the formulation of the revenue and capital budgets for consideration by Council; and, in doing so consulting with Members and stakeholders in the community as necessary on the budget; and taking in-year decisions on resources and priorities to deliver strategies and the budget (within the discretions agreed for the time being by Council);</li> <li data-bbox="587 999 1428 1249">(f) the maintenance and development of processes for effective communication and consultation with the community, consultation Forums and other agencies especially in relation to the Council's policies and strategies;</li> <li data-bbox="587 1294 1428 1545">(g) promoting the mainstreaming of equal opportunities, sustainability, social inclusion and health and community safety in relation to the provision of this Council's services, and the delivery of services in the Borough by other agencies;</li> <li data-bbox="587 1590 1428 1760">(h) dealing with all matters which are within the duties of this Council which are not specifically delegated to any other body within the democratic structure</li> <li data-bbox="587 1805 1428 1975">(i) maintaining and developing frequent and effective dialogue with all Members especially in relation to the work of the Scrutiny Committees;</li> <li data-bbox="587 2020 1428 2060">(j) seeking the advice of Scrutiny Committees</li> </ul>

PORTFOLIO	RESPONSIBILITY
	<p>before taking significant decisions and being responsive to any recommendations those Committees may make and, where they differ from its own policy agenda, justifying its own policies to Council;</p> <p>(k) leading the community planning process in partnership with other agencies;</p> <p>(l) overseeing the development of the Council's Corporate Strategies and Policies;</p> <p>(m) ensuring that all relevant services represent value for money;</p> <p>(n) maintaining positive relationships with relevant external agencies such as the Council's Auditors;</p> <p>(o) being the focus for forming partnerships with other agencies, businesses and voluntary sector bodies;</p> <p>(p) recognising the possible impact of policies on implementing sustainable development;</p> <p>(q) having responsibility for contracts that are subject to Procurement;</p> <p>(r) considering and making recommendations on the Council's Capital and Revenue Medium-Term Financial Plans;</p> <p>(s) that, in relation to responsibility for land :-</p> <ul style="list-style-type: none"> <li>(i) the Cabinet is the holding body for all Council-owned land;</li> <li>(ii) the power to lodge planning applications to develop council land on behalf of the Council, be delegated to Chief Officers, subject to consultation with the relevant Cabinet Member; and</li> </ul>

PORTFOLIO	RESPONSIBILITY
	<p>(iii) the Cabinet is responsible for all disposals of land whether by sale, lease or licence and all acquisitions, taking into account any delegations and the Contract and Property Procedure Rules.</p> <p>(t) Corporate Risk Management;</p> <p>(u) Transformation projects, as required;</p> <p>(v) ensuring efficiency is fully taken into account when taking any decisions; and</p> <p>(w) ensuring resources within the portfolios are utilised in an efficient manner.</p>
<b>Leader</b>	<ol style="list-style-type: none"> <li>1. To appoint a Deputy Leader for a four-year term of office.</li> <li>2. To appoint the number of Cabinet Members, a minimum of three and a maximum of nine, and allocate the Portfolio's to each Cabinet Member.</li> <li>3. To make decisions, draw up the budget and make new policies alone or with Cabinet (a simple majority of Councillors can reject a proposal from the Leader/Cabinet).</li> <li>4. To make arrangements for the discharge of the functions which under Regulations are the responding of Cabinet.</li> <li>5. In addition to leadership of corporate strategy for the Council, including reputation, legislation, partnerships and policy, the Leader will :- <ul style="list-style-type: none"> <li>• represent the Council as required at national and regional level and on Regional and Tees Valley bodies, including the Tees Valley Combined Authority;</li> <li>• lead on Transformation and the Business</li> </ul> </li> </ol>

<b>PORTFOLIO</b>	<b>RESPONSIBILITY</b>
	<p>Model;</p> <ul style="list-style-type: none"> <li>• lead on international partnerships and Town Twinning; and</li> <li>• lead on Darlington Partnership</li> </ul>
<b>Deputy Leader</b>	<ol style="list-style-type: none"> <li>1. To assist the Leader with their responsibilities.</li> <li>2. To deputise for the Leader in their absence.</li> </ol>
<b>Economy</b>	<ul style="list-style-type: none"> <li>• ‘Place’ Strategy, Policy and Performance</li> <li>• Planning and Related Policy</li> <li>• Economy and Housing Policy</li> <li>• Environment, Urban Design, Heritage and Sustainability</li> <li>• Climate Change</li> <li>• Development Management (Local Planning Authority matters – except where delegated to Planning Applications Committee)</li> </ul> <p>Economic Development and Regeneration:</p> <ul style="list-style-type: none"> <li>• Employability</li> <li>• Business Support</li> <li>• Business Engagement</li> <li>• Inward Investment</li> <li>• Regeneration and Development</li> <li>• Town Centre</li> <li>• Environmental Health</li> <li>• Building Control</li> </ul>
<b>Stronger Communities</b>	<ul style="list-style-type: none"> <li>• Policing</li> <li>• Community Safety</li> <li>• Council’s responsibilities for Fire and Rescue Services</li> <li>• Street Scene Enforcement</li> <li>• Management of Council authorised Gypsy and Traveller sites and illegal encampments</li> <li>• Private Sector Housing</li> <li>• Licensing of premises (except where delegated to Licensing Committee)</li> <li>• Hackney carriage and private hire vehicles (except where delegated to the Licensing Committee)</li> <li>• Trading Standards and Animal Welfare</li> <li>• Co-ordination of the Council's responsibilities</li> </ul>

PORTFOLIO	RESPONSIBILITY
	<p>under the Floods and Water Act</p> <ul style="list-style-type: none"> <li>• Civil Contingencies and Emergency Planning</li> <li>• Parking Enforcement</li> <li>• CCTV</li> <li>• Voluntary sector</li> <li>• Community Development</li> <li>• Decision making on applications for community grants, subject to existing criteria</li> <li>• Equalities</li> <li>• Cabinet Champion for equalities</li> </ul>
<p><b>Children and Young People</b></p>	<ul style="list-style-type: none"> <li>• Education</li> <li>• Adult and Community Learning</li> <li>• Children’s safeguarding and assessment</li> <li>• Looked after children (including fostering and adoption)</li> <li>• Care Leavers</li> <li>• Life Stages (0 – 25 years)</li> </ul>
<p><b>Resources</b></p>	<ul style="list-style-type: none"> <li>• Financial Management within the Council including Medium Term Financial (MTFP), Treasury management, local taxation and Risk management and Insurance</li> <li>• Oversight of Transformation and Business Model implementation</li> <li>• Oversight of the Council’s Corporate Planning process including the Organisational Development Strategy (ODS), Performance management and the efficiency programme</li> <li>• Corporate Landlord</li> <li>• Land and Property Asset Management</li> <li>• Corporate Procurement</li> <li>• Information Communication Technology (ICT)</li> <li>• Human Resources</li> <li>• Health and Safety</li> <li>• Communications and One Darlington magazine</li> <li>• Oversight of the Building Services division</li> <li>• Housing Benefits</li> <li>• Discretionary Rate Relief</li> <li>• The Council’s Customer Strategy and oversight of the Council’s Customer Services and insight functions</li> </ul>



<b>PORTFOLIO</b>	<b>RESPONSIBILITY</b>
	<ul style="list-style-type: none"> <li>• Legal/Democratic/Registrars</li> <li>• Oversight of the Councils Shared Services Partnership Xentrall</li> <li>• Oversight of the capital projects and design services management</li> </ul>
<b>Adults</b>	<ul style="list-style-type: none"> <li>• Adult Mental Health</li> <li>• Mental Health Services for Older People, Mental Capacity Act/Deprivation of Liberty Safeguards, and Approved Mental Health Practitioners</li> <li>• Assessment and Reviews, Physical and Sensory Impairment, First Point of Contact, Safeguarding Adults, On-going and Complex Care and Occupational Therapy</li> <li>• Life Stages Services (26 years plus)</li> <li>• Day Services</li> <li>• Supported Living</li> <li>• Reablement</li> <li>• Learning Disability Services</li> </ul>
<b>Health and Housing</b>	<ul style="list-style-type: none"> <li>• Public Health functions</li> <li>• Integrated health commissioning</li> <li>• NHS</li> <li>• Sports and physical activity programme</li> <li>• Dolphin Centre</li> <li>• Eastbourne Sports Complex</li> <li>• Council Housing Services including Lifeline and Homelessness</li> </ul>
<b>Local Services</b>	<ul style="list-style-type: none"> <li>• Street Scene Policy (refuse/recycling/street cleaning/grounds maintenance)</li> <li>• Crematorium and Cemeteries</li> <li>• Arboriculture</li> <li>• Countryside and Allotments</li> <li>• Parks, Open Spaces and Play Areas</li> <li>• Waste Management</li> <li>• Fleet Management and Maintenance</li> <li>• Head of Steam</li> <li>• Hippodrome</li> <li>• Events and Programming</li> <li>• Library Service</li> </ul>

<b>PORTFOLIO</b>	<b>RESPONSIBILITY</b>
	<ul style="list-style-type: none"><li>• Strategic Arts</li><li>• 2025</li></ul> <p><b>Transport Policy</b></p> <ul style="list-style-type: none"><li>• Highway Authority responsibilities, including :-<ul style="list-style-type: none"><li>• Transport and Highways Asset Management (roads, paths, rights of way, street lighting, traffic signals, signage);</li><li>• Transport and Highways Network Management and Improvement Schemes</li><li>• Road Safety</li><li>• Parking Policy</li><li>• Supported Bus Services and Concessionary Fares</li><li>• Sustainable Transport</li></ul></li></ul>

## **Delegation of Executive Functions**

The Executive has delegated some of its functions to an individual Cabinet Member and Officers, as detailed below:-

### **Individual Cabinet Member**

1. The Cabinet has delegated the Executive Functions as detailed in the Scheme of Delegations to Individual Cabinet Members.
2. Before taking decisions within his/her delegated authority, the individual Cabinet Member will seek advice from relevant officers.
3. The Individual Cabinet Member exercising decision making powers will ensure that proper records are kept of all decisions they take, in accordance with legal requirements.
4. Where the individual Cabinet Member has a prejudicial interest (as defined in the Members' Code of Conduct) in relation to any decision, he/she will not take that decision, but will ask the relevant Officer to refer the matter to the Cabinet for determination.

### **Officers**

5. The Council's Cabinet has delegated to Officers, the Executive functions which are contained in the Officers Delegation Scheme which are shown to be Executive by the first column of the scheme. This column is to distinguish executive and non-executive functions in the Officers Delegation Scheme.
6. The delegation of these powers operates under Section 15 of the Local Government Act 2000 and all other powers enabling the Executive.
7. The Executive powers delegated to Officers are subject to the Cabinet Procedure Rules as set out in this Constitution.

### **Outside Body Appointments**

8. Insofar as the making of appointments to outside bodies is an executive function, the Executive agrees that those appointments should be made as set out in Schedule 5.

## **Delegation to and from Other Local Authorities/Bodies**

9. The Cabinet has delegated the powers to Stockton Borough Council under S19 Local Government Act 2000 to carry out executive functions for the delivery of ICT, print and design, transactional human resources and transactional finance.
  
10. The Cabinet has delegated the powers relating to the enforcement of the legislation as detailed below, to Redcar and Cleveland Borough Council and authorised officers employed within the National Trading Standards Regional Investigations Team (North East), in accordance with Section 101 of the Local Government Act 1972, and Section 13(7) of the Local Government Act :-
  - (a) Anti-Social Behaviour Act 2003;
  - (b) Business Protection from Misleading Marketing Regulations 2008
  - (c) Children and Families Act 2014;
  - (d) Companies Acts 1985 and 2006;
  - (e) Consumer Credits Acts 1974 and 2006;
  - (f) Consumer Protection Act 1987;
  - (g) Consumer Protection from Unfair Trading Regulations 2008;
  - (h) Consumer Rights Act 2015;
  - (i) Copyright, Designs and Patents Act 1988;
  - (j) Courts and Legal Services Act 1990;
  - (k) Energy Act 1976;
  - (l) Energy Conservation Act 1981;
  - (m) Enterprise Act 2002;
  - (n) Estate Agents Act 1979;
  - (o) European Communities Act 1972;
  - (p) Explosives Act 1875;
  - (q) Fireworks Act 2003;
  - (r) Fraud Act 2006;
  - (s) General Product Safety Regulations 2005;
  - (t) Hallmarking Act 1973;
  - (u) Health and Safety at Work etc. 1974;
  - (v) Intellectual Property Act 2014;
  - (w) Licensing Act 2003;
  - (x) Medicines Act 1968;
  - (y) Prices Acts 1974 and 1975;
  - (z) Proceeds of Crime Act 2002;
  - (aa) Road Traffic Acts 1988 and 1991;
  - (bb) Trade Descriptions Act 1968;
  - (cc) Trade Marks Act 1994; and
  - (dd) Video Recordings Act 1984 and 2010

and all secondary legislation made under any of the specified legislation.

### **Joint Arrangements**

11. The joint arrangements which have been established with other local authorities are :-

- (a) North East Joint Health Scrutiny Committee;
- (b) Tees Valley Joint Health Scrutiny Committee; and
- (c) Durham Police and Crime Panel and Audit Committee

## **Scheme of Delegations to Individual Cabinet Members**

1. Cabinet has delegated the following powers to the Cabinet Member with the Stronger Communities Portfolio :-
  - (a) to make decisions on applications for Community Grants, subject to criteria.
  
2. Cabinet has delegated the following powers to the Leader (or in their absence, their nominated representative) in their capacity as this Council's representative on the Leaders' Board or any future successor body, to :-
  - (a) exercise all the necessary executive powers and functions relating to the preparation and revision of the Regional Strategy for the North East, as prescribed in Part 5 of the Local Authority, Economic Development and Construction Act 2009; and
  - (b) exercise all the necessary executive powers and functions relating to the North East Smart Ticketing Initiative (NESTI).

### **SCHEDULE 3**

The following pages set out the membership of the Council's Scrutiny Committees.

1. Economy and Resources Scrutiny Committee
2. Adults Scrutiny Committee
3. Health and Housing Scrutiny Committee
4. Children and Young People Scrutiny Committee
5. Communities and Local Services Scrutiny Committee
6. General Role of the Council's Scrutiny Committees
7. Monitoring and Co-ordination Group

## ECONOMY AND RESOURCES SCRUTINY COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  5 Labour Group Members, 3 Conservative Group Members, 1 Green Group Member and 1 Liberal Democrat Group Member	5 x 3 x 1 x 1
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	10
<b>QUORUM –</b>	3

### **PROTOCOLS**

The Scrutiny Committee cannot include any Member of Cabinet in its membership.

The Chair/Vice-Chair of a Scrutiny Committee cannot be the Chair/Vice-Chair of the Licensing or Planning Applications Committees.

### **TERMS OF REFERENCE**

To undertake the Council's Scrutiny functions in relation to the following services



## RESOURCES PORTFOLIO

Financial Management within the Council, including the Medium-Term Financial Plan (MTFP), Treasury Management, Local Taxation and Risk Management and Insurance

Transformation and Business Model Implementation

The Council's Corporate Planning Process, including the Organisational Development Strategy (ODS), Performance Management and the Efficiency Programme

Corporate Landlord

Land and Property Asset Management

Corporate Procurement

Information Communication Technology (ICT)

Human Resources

Health and Safety

## ECONOMY PORTFOLIO

Place Strategy, Policy and Performance

Planning and Related Policy

Economy and Housing Policy

Environment, Urban Design, Heritage and Sustainability

Climate Change

Development Management (Local Planning Authority matters)

Economic Development and Regeneration

- Employability
- Business Support
- Business Engagement
- Inward Investment
- Regeneration and Development
- Town Centre
- Environmental Health
- Building Control

Communications and One Darlington  
Magazine

Building Services Division

Housing Benefits

The Council's Customer Strategy and  
oversight of the Council's Customer  
Services and insight functions

Legal/Registrars and Democratic  
functions

The Council's Shared Services  
Partnership Xentrall

The Council's capital projects and  
design Services management

## ADULTS SCRUTINY COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  5 Labour Group Members, 3 Conservative Group Members and 2 Green Group Members	5 x 3 x 2 x 0
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	10
<b>QUORUM –</b>	3

### **PROTOCOLS**

The Scrutiny Committee cannot include any Member of Cabinet in its membership.

The Chair/Vice-Chair of a Scrutiny Committee cannot be the Chair/Vice-Chair of the Licensing or Planning Applications Committees.

### **TERMS OF REFERENCE**

To undertake the Council’s Scrutiny functions in relation to the following services

## **ADULTS PORTFOLIO**

Adult Mental Health

Mental Health Services for Older People, Mental Capacity Act / Deprivation of Liberty Safeguards, and Approved Mental Health Practitioners

Assessment and Reviews, Physical and Sensory Impairment, First Point of Contact, Safeguarding Adults, On-going and Complex Care and Occupational Therapy

Life Stages Service (26 years and above)

Day Services

Supported Living

Reablement

Learning Disability Services

## HEALTH AND HOUSING SCRUTINY COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  5 Labour Group Members, 3 Conservative Group Members and 2 Green Group Members	5 x 3 x 2 x 0
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	10
<b>QUORUM –</b>	3

### **PROTOCOLS**

The Scrutiny Committee cannot include any Member of Cabinet in its membership.

The Chair/Vice-Chair of a Scrutiny Committee cannot be the Chair/Vice-Chair of the Licensing or Planning Applications Committees.

### **TERMS OF REFERENCE**

To undertake the Council's Scrutiny functions in relation to the following services

## **HEALTH AND HOUSING PORTFOLIO**

Public Health functions

Integrated Health Commissioning

NHS

Council Housing Services, including Lifeline and Homelessness

Dolphin Centre

Eastbourne Sports Complex

Sports and Physical Activity Programme

## CHILDREN AND YOUNG PEOPLE SCRUTINY COMMITTEE

<b>MEMBERSHIP</b>	
<p><b>DARLINGTON BOROUGH COUNCIL</b></p> <p>5 Labour Group Members, 3 Conservative Group Members, 1 Green Group Member and 1 Liberal Democrat Group Member</p>	<p>5 x 3 x 1 x 1</p>
<p><b>OTHER MEMBERS</b></p> <p>Voting Members</p> <p>Non-voting Members</p>	<p>1 Church of England Diocese representative                      1 Roman Catholic Diocese representative                      3 Parent Governor representatives</p> <p>3 Community representatives                      1 Secondary Teaching representative                      1 Primary Teaching representative                      1 Further Education representative                      11-19 Partnerships representative                      Primary Schools Forum representative</p>
<p><b>TOTAL MEMBERSHIP –</b></p>	<p>10</p>
<p><b>QUORUM –</b></p>	<p>3</p>

## **PROTOCOLS**

The Scrutiny Committee cannot include any Member of Cabinet in its membership.

The Chair/Vice-Chair of a Scrutiny Committee cannot be the Chair/Vice-Chair of the Licensing or Planning Applications Committees.

The voting representatives shall always be included in the membership.

## **TERMS OF REFERENCE**

To undertake the Council's Scrutiny functions in relation to the following services

### **CHILDREN AND YOUNG PEOPLE PORTFOLIO**

Education

Adult and Community Learning

Children's Safeguarding and Assessment

Looked After Children (including fostering and adoption)

Care Leavers

Life Stages (0-25)



## COMMUNITIES AND LOCAL SERVICES SCRUTINY COMMITTEE

<b>MEMBERSHIP</b>	
<b>DARLINGTON BOROUGH COUNCIL</b>  5 Labour Group Members, 3 Conservative Group Members, 1 Green Group Member and 1 Liberal Democrat Group Member	5 x 3 x 1 x 1
<b>OTHER MEMBERS</b>	
<b>TOTAL MEMBERSHIP –</b>	10
<b>QUORUM –</b>	3

### **PROTOCOLS**

The Scrutiny Committee cannot include any Member of Cabinet in its membership.

The Chair/Vice-Chair of a Scrutiny Committee cannot be the Chair/Vice-Chair of the Licensing or Planning Applications Committees.

### **TERMS OF REFERENCE**

To undertake the Council's Scrutiny functions in relation to the following services

## **STRONGER COMMUNITIES PORTFOLIO**

Policing

Community Safety

Community Development

Community Grants

The Council's responsibilities for the Fire and Rescue Services

Street Scene Enforcement

Illegal Encampments

Private Sector Housing

Licensing of premises (except where delegated to the Licensing Committee)

Hackney Carriage and Private Hire Vehicles (except where delegated to the Licensing Committee)

Trading Standards and Animal Welfare

Co-ordination of the Council's responsibilities under the Floods and Water Act

Civil Contingencies and Emergency Planning

## **LOCAL SERVICES PORTFOLIO**

Street Scene Policy (refuse/recycling/street cleaning/grounds maintenance)

Crematorium and Cemeteries

Arboriculture

Countryside and Allotments

Parks, Open Spaces and Play Areas

Waste Management

Fleet Management and Maintenance

Head of Steam

Hippodrome

Events and Programming

Library Service

Strategic Arts

2025

Parking Enforcement

Transport Policy  
Transport and Highways Asset  
Management (roads, paths, rights  
of way, street lighting, traffic  
signals, signage)

CCTV

Transport and Highways Network  
Management and Improvement  
Schemes

Equalities

Road Safety

Voluntary Sector

Parking Policy

Supported Bus Services and  
Concessionary Fares

Sustainable Transport

## **GENERAL ROLE OF THE COUNCIL'S SCRUTINY COMMITTEES**

Within its terms of reference, the Scrutiny Committee will :-

review and/or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of Cabinet (see Call-in procedures as set out in the Scrutiny Procedure Rules);

make reports or recommendations to the Council or Cabinet, with respect to the discharge of any functions which are the responsibility of Cabinet;

review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet; and

make reports or recommendations to the Council, or Cabinet, with respect to the discharge of any functions which are not the responsibility of Cabinet on matters which affect the Authority's area or the inhabitants of that area.

### **Policy Development -**

Within its terms of reference, the Scrutiny Committee will:-

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

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

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

question Members of the Cabinet and/or Committees and Chief Officers about their views on issues and proposals affecting the area; and

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

## **Review -**

The Scrutiny Committee may :-

review and scrutinise the decisions made by and the performance of the Cabinet, Committees and Council Officers, both in relation to individual decision, and over time;

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

question Members of the Cabinet, 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;

monitor and challenge performance of the agreed targets for the Community Strategy.

question and gather evidence from any other person (with their consent):

make recommendations to the Cabinet, appropriate Committees or Council arising from the outcome of the scrutiny process; and

review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance.

In deciding what reviews are to be undertaken, Members will ensure that any work focuses on delivering outcomes and contributes to the strategic aims of the Council.

## **NOTES –**

### **Officer Support -**

Each Scrutiny Committee has a Lead Officer to support it, and, in the main, these Officers are from the relevant service delivery area.

Scrutiny Committees have access to any Officer or Member, who they feel may be able to assist in the review of any issue. They also receive support which is justifiable and is sufficient to provide both the administrative support and information required.

### **Role of the Chair -**

The Chair will ensure that Scrutiny is Member-led and is focused on delivering outcomes.

### **Finance -**

The Scrutiny Committees have no responsibility for the finances made available to them, the Monitoring and Co-ordination Group recommend resource allocation to the Assistant Director Resources

### **Annual Report -**

Scrutiny Committees must report to Full Council on their workings and make recommendations to the Monitoring and Co-ordination Group for future work programmes and amended working methods if appropriate. These reports should be monitored to ensure that the outcomes of each review undertaken have improved, or made suggestions to improve service delivery.

## **Schedule 4**

### Scheme of Delegation to Officers

1. The Scheme:

- Introduction
- Member Consultation
- Reservations
- Restrictions
- Permissions

2. Areas of Responsibility

3. Exceptions:

- Contractual and Property
- Financial
- Employee and Staff Management
- Legal Action and Prosecuting Acts

4. Statutory Officer and Proper Officer Powers

# INTRODUCTIONS AND PERMISSIONS SCHEME

## Introduction

1. The Council has adopted a vision expressed in the phrase One Darlington: Perfectly Placed which aspires to provide fairness and prosperity for the people of Darlington. To enable that vision managerial and operational decisions are taken, within a framework of democratic accountability, at the most appropriate level, which is usually the closest point of contact to the citizen. This scheme is to be interpreted widely to give effect to this overall purpose by empowering staff to carry out their functions and deliver the Council's services within the budget and policy framework set by the Council, and subject to the guidelines set by the Executive and the Council's management team.

## Overall Limitations

2. The exercise of delegated powers is subject to the following overriding limitations.

## Member Consultation

3. Officers set out in the scheme are expected in appropriate cases to :-
  - (a) maintain a close liaison with the appropriate portfolio holder or in their absence the Leader or another Cabinet Member;
  - (b) in the case of temporary or project specific delegations, Officers will consult relevant portfolio holders;
  - (c) ensure the Ward Councillors are consulted or advised of the exercise of delegated powers; and
  - (d) ensure that the Chief Executive, the Group Director of Operations and the Assistant Director Law and Governance are consulted and advised of any decisions as necessary.
4. Portfolio holders for the relevant area should be consulted on the exercise of a delegated power in all cases where :-
  - (a) there is likely to be opposition from members of the public;
  - (b) where there are political sensitivities; or
  - (c) expenditure is unusual for the budget area.



5. Before exercising any delegated power, Officers must consider whether to consult with the relevant Portfolio Holder on the exercise of delegated powers or not to exercise delegated powers but to refer the matter to the relevant member or member body to decide.
6. The Leader, or any Cabinet Member, may at any time, following consultation with the Chief Executive and relevant Officer, require a particular issue or any aspect of delegated powers to be referred to the appropriate member body for a decision.
7. This does not limit the general requirements set out elsewhere in the constitution to consult with relevant Ward Members, Scrutiny Chairs and interested groups in reaching decisions.

### **Reservations**

8. The scheme does not delegate to officers :-
  - (a) any matter reserved to full Council;
  - (b) any matter which by law may not be delegated to an Officer;
  - (c) any Key Decision; or
  - (d) any matter expressly withdrawn from delegation by the Council, the Executive, the Planning Applications Committee and the Licensing Committee.

### **Restrictions**

9. Any exercise of delegated powers is subject to :-
  - (a) any statutory restrictions;
  - (b) the budget and policy framework;
  - (c) any provision contained in this Constitution including the Procedure Rules;
  - (d) any financial limits set out in the revenue or capital budgets except as set out in the Financial Procedure Rules;
  - (e) any policy set by the Council or its committees, the Executive or the Chief Executive; and
  - (f) the Code of Conduct for Employees.

## **Permissions**

10. This scheme delegates to Officers named or described in the Areas of Responsibility section all the powers and duties relevant to those areas of responsibility that rest with the Council or which have been delegated or granted to the Council, subject to the limitations, restrictions, reservations and requirements for consultation set out above. This includes all powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation including but not limited to :-

### **(a) Powers in relation to staff**

Take any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline, determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirement and determination of establishment except as detailed in the Staff and Employment Exceptions chart.

### **(b) Powers in relation to contracts and property**

Powers in relation to contracts and property agreements to negotiate, put out to tender, bid, submit tenders, vary, terminate, dispute, extend and renew and in relation to contracts to buy and sell and in relation to property to acquire, dispose of, let and licence except as detailed in the Contracts and Property Exceptions Charts.

### **(c) Powers in relation to planning**

Powers to determine applications, grant permission, refuse permission, to publicise applications, to comment or make representations on applications, notifications and consultations, to raise objections, to require documentation and information, to take appropriate action on enforcement, to negotiate, complete, vary, discharge or amend planning obligations and agreements, process and determine all decisions relating to neighbourhood planning under the Localism Act 2011, other than as detailed in the Legal Exceptions Chart.

#### **(d) Powers in relation to finance**

Powers to incur capital and revenue expenditure, to seek recovery of amounts owed, to exercise discretion in recovery, alter or waive repayment periods, or approve exemptions in relation to repayments, agree refunds, reduce or remit payments and waive fines, except as detailed in the Finance Exceptions Chart.

#### **(e) Powers in relation to legal action**

Powers to authorise, appoint or nominate officers and to investigate, prosecute, enforce, lay summons, require individuals to disclose information, serve requisitions for information, publish information, apply to a court, sign notices, issue, serve, vary, revoke and publish notices, including fixed penalty notices and serve documents, make prohibition orders, suspend or vary a prohibition order, take emergency remedial action, carry out works in default, issue certificates, issue consents, issue licenses and license applications, issue permits, refuse, vary or revoke licensing applications, issue temporary exemption notices, obtain, introduce, operate, amend, extend, vary and revoke orders, impose conditions, introduce and maintain registers, exercise powers of entry without force, apply for a warrant, make, vary or revoke and in relation to land relevant to service functions to note applications for licences, planning, consents and approvals, a declaration and grant, vary, revoke and attach conditions to consents except as detailed in the Legal Exceptions Chart.

### **The Chief Executive**

11. The Chief Executive will have the following additional powers :-

- (a) to carry out the powers and duties of any of the Officers in their absence or in consultation with them;
- (b) to incur expenditure in the event of a civil emergency;
- (c) in cases of urgency, to take any decision which could be taken by the Council, the Executive or a Committee in consultation with the Leader; and
- (d) to alter the areas of responsibility of the Directors, Assistant Directors and Heads of Service, as set out in the Areas of Responsibility section of this scheme.

## **Directors**

12. Directors will have the powers to carry out the powers and duties of any Officers within their area of responsibility in their absence or in consultation with them.

## **Assistant Director Law and Governance**

13. The Assistant Director Law and Governance will have powers to carry out all legal action on behalf of any other officer in consultation with them or in their absence.

## **Officer Delegation**

14. Any delegation to an Officer includes authority for any further delegation within the relevant Area of Responsibility. Officers shall devolve responsibilities for service delivery and management to those staff who represent the nearest practicable point of delivery to the service user.

## **Written Records and Publicity**

15. An Officer making a decision under delegation, will need to publish a written record of :-

(i) any decision which is sufficiently important or sensitive that the public would expect that decision to have been taken by an Elected-Member decision-making body, such as Cabinet rather than an Officer using delegated powers ;

(ii) any decision which :-

(a) is a specific express rather than general delegation;

(b) grants a permission or licence;

(c) affects the right of an individual; or

(d) awards a contract, or incurs expenditure which, in either case, materially affects the Council's financial position.

16. If a written record of a decision is required, it must be completed as soon as is reasonably practicable after the decision has been made. The decision must be publically available for inspection and posted on the Council's website (together with any background papers). The decision record must include, the date of the decision, the reasons, details of any alternative options considered and rejected and details of any conflict of interest declared (for instance of a Cabinet Member who

may have been consulted).

17. A pro-forma decision record is available for use.

## AREAS OF RESPONSIBILITY

### Chief Executive

**Lead for Economic Growth**  
**Lead Strategic Partnerships**

<b>Assistant Director</b>	<b>Responsibilities</b>
Assistant Director – Economic Growth	<ul style="list-style-type: none"> <li>• Asset Management</li> <li>• Building Control</li> <li>• Business Investment</li> <li>• Development Management</li> <li>• Environmental Health</li> <li>• Planning Policy</li> <li>• Local Plan Policy Development</li> <li>• Built and Natural Environment</li> <li>Economic Strategy and TVCA Liaison</li> </ul>

### Group Director of Operations (Chief Finance Officer/S.151 Officer)

<b>Assistant Director</b>	<b>Responsibilities</b>
Assistant Director Resources	<ul style="list-style-type: none"> <li>• Financial Management across the Council</li> <li>• Central Finance for Closure of Accounts, MTFP preparation, Financial Reporting, Corporate Revenue and Capital Budgets, Leasing and Financial Advice</li> <li>• Financial Assessments and Financial Protection</li> <li>• Internal Audit,</li> <li>• insurance and Treasury Management</li> <li>• HR Advisory Services</li> <li>• Health, Safety and Wellbeing</li> <li>• HR Strategy and Development, Employment Policies, Equal Pay and Pensions</li> <li>• Transactional Finance and HR (via Xentrall)</li> </ul>
Assistant Director Law and Governance	<ul style="list-style-type: none"> <li>• Chief Legal Officer and Monitoring Officer</li> <li>• Legal work (including litigation) in all areas of local government powers, functions and competencies</li> <li>• Local Land Charges</li> <li>• Corporate Procurement</li> </ul>

	<ul style="list-style-type: none"> <li>• Democratic Services</li> <li>• Elections and Electoral Registration</li> <li>• Registration Service</li> <li>• Information Governance, Complaints and Risk Management</li> <li>• Coroner Service (with Durham County Council)</li> <li>• Postal Services</li> <li>• PA Service</li> </ul>
Assistant Director (Housing and Revenues)	<ul style="list-style-type: none"> <li>• Housing Options and Advice, Choice Based Lettings</li> <li>• Council Housing management</li> <li>• Administration of Housing Benefit, Discretionary Housing Payments, Council Tax Reduction Schemes, Council Tax Collection and Business Rates</li> <li>• Customer Services</li> </ul>
Head of Strategy, Performance and Communications	<ul style="list-style-type: none"> <li>• Systems Development and Support</li> <li>• Corporate Communications</li> <li>• Media Relations</li> <li>• Internal Communication</li> <li>• Web and Social Media</li> <li>• Design and Print</li> <li>• Marketing and Advertising</li> </ul>

Assistant Director Xentrall Shared Services	<ul style="list-style-type: none"> <li>• ICT</li> <li>• Print and Design</li> <li>• Payroll</li> <li>• Transactional HR</li> <li>• Transactional Finance</li> </ul>
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**Group Director of Services**

<b>Assistant Director</b>	<b>Responsibilities</b>
Assistant Director Highways and Capital Projects	<ul style="list-style-type: none"> <li>• Delivery of Highways Construction and Maintenance Programme</li> <li>• Highways Maintenance Projects, Transport, Planning and Asset Management</li> </ul>

<b>Assistant Director</b>	<b>Responsibilities</b>
	<ul style="list-style-type: none"> <li>• Bridges and Highway Structures, Private Street Works, Street Works, Highway Inspections/Insurance Claims, Asset Management, Street Lighting and Traffic Signals</li> <li>• Highway Network Management, Highway Development, Intelligent Transport System, Traffic Data Collection, Casualty Reduction Analysis, Traffic Management Projects, Highways Technical Support, School Crossing Patrol, Highway/Transport Design and Road Safety Education, Sustainable Transport and Rights of Way</li> <li>• Capital Project Management, Capital Process Methodology, Capital Projects Technical Support and Advice, Architectural Consultancy, Building Services Consultancy, Framework Consultancy Commissions, Cost Consultancy Services and Estimating and Tendering, Investment and Funding</li> <li>• Project/Programme Management and Development</li> <li>• Flood Risk Management</li> </ul>
Assistant Director Community Services	<ul style="list-style-type: none"> <li>• Street Scene, Crematorium and Cemeteries, Arboriculture, Countryside, Allotments, Parks and Open Spaces and Play Area Ranger Service/Friends Groups, Waste Management, Fleet Management and Maintenance, Winter Maintenance Call Out, Environmental Campaigns, Nursery and Building Cleaning</li> <li>• Library, Dolphin Centre, Eastbourne Sports Complex, Head of Steam, Hippodrome and Theatre Hullabaloo, Events and Programming, Sports and Physical Activity Programme, Schools and Community Catering</li> <li>• Community Safety and Town Centre Management</li> <li>• Council Building Services</li> <li>• Rail Heritage</li> <li>• 2025</li> </ul>



## Group Director of People

<b>Assistant Director</b>	<b>Responsibilities</b>
Assistant Director Adult Social Care	<p>Social Work Teams (Assessment and Review through First Point of Contact Team, On-going and Complex Care Team) :-</p> <ul style="list-style-type: none"> <li>• Adults – 18 to 64 years, including Mental Health</li> <li>• Older People – 65 years including Older People’s Mental Health</li> <li>• Approved Mental Health Practitioners</li> <li>• Occupational Therapy</li> <li>• Life Stages Service</li> <li>• Mental Capacity Act/Deprivation of Liberty Safeguards</li> <li>• Day Services</li> <li>• Supported Living Services</li> <li>• Reablement Services</li> <li>• Learning Disability Provider Services</li> </ul>
Assistant Director Children’s Services	<ul style="list-style-type: none"> <li>• Social Work Teams (covering Children in Need, Child Protection, , Looked After Children and Care Leavers) :-</li> <li>• Children’s Access Point</li> <li>• First Response Team</li> <li>• Safeguarding and Assessment Teams</li> <li>• Looked After Through Care Team, including Leaving Care</li> <li>• Independent Reviewing Service</li> <li>• Fostering and Adoption Team, including Family Placement Services</li> <li>• Quality Assurance</li> <li>• Integrated Early Help Teams, including Troubled Families</li> <li>• Children’s Residential and Short Stay Homes</li> <li>• Youth Offending Services</li> <li>• Children and Adults Safeguarding Business Unit</li> <li>• Local Authority Designated Officer</li> </ul>
Assistant	<ul style="list-style-type: none"> <li>• Commissioning and Contract Management across</li> </ul>

<p>Director Commissioning, Performance and Transformation</p>	<p>Children’s Services and Adults</p> <ul style="list-style-type: none"> <li>• Performance Management – Children’s Social Care, Education and Public Health Services</li> <li>• Transformation Projects across Children’s, Adults, Education and Public Health Services</li> <li>• Partnerships and Third Sector Relationships</li> <li>• Better Care Fund and Improved Better Care Fund (BCF/iBCF)</li> <li>• Business Support Service</li> <li>• Social Fund</li> </ul>
<p>Assistant Director (Education and Inclusion)</p>	<ul style="list-style-type: none"> <li>• SEN Assessment and Provision</li> <li>• Education Psychology Service</li> <li>• Education Safeguarding</li> <li>• Virtual School Head – Looked After Children Education</li> <li>• Inclusion</li> <li>• Admissions and Transport</li> <li>• School Place Planning: including Special, Out of Area</li> <li>• Early Years Foundation Stage – Quality and Provision</li> <li>• 11-19 Partnership and associated Groups</li> <li>• Learning and Skills Services</li> <li>• Collective Worship/SACRE</li> <li>• Educational Attainment through whole system partnerships</li> <li>• School Liaison</li> <li>• Ofsted and Regional Schools Commissioner Liaison/Relationships</li> </ul>
<p>Director of Public Health</p>	<ul style="list-style-type: none"> <li>• Public health functions which are the responsibility of the Council under the Health and Social Care Act 2012 and such other public health functions as may be prescribed.</li> <li>• Health improvement</li> <li>• Health protection</li> <li>• Population healthcare public health</li> </ul>

## EXCEPTIONS – CONTRACTING

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

Process	Strategic Procurement	EU Threshold*	Over £100,000*	Over £10,000	Up to £10,000
<b>*Contract value is over the whole contract and any extension provision not the annual spend</b>					
Approval to tender	Cabinet through the Annual Procurement Plan	Cabinet through the Annual Procurement Plan	Cabinet through the Annual Procurement Plan	Budget Manager	Budget Manager
Key Terms and Conditions	Cabinet and the Procurement Board through the Annual Procurement Plan	Director	Head of Service	Service Manager	Service Manager
Approval of Specification	Cabinet and the Procurement Board through the Annual Procurement Plan	Assistant Director	Head of Service	Service Manager	Service Manager
Award Criteria	Cabinet and the Procurement Board through the Annual Procurement Plan	Director and Corporate Procurement Strategy	Assistant Director and Corporate Procurement Strategy	Service Manager and Corporate Procurement Strategy	Service Manager

<b>Process</b>	<b>Strategic Procurement</b>	<b>EU Threshold*</b>	<b>Over £100,000*</b>	<b>Over £10,000</b>	<b>Up to £10,000</b>
Approval of Contract Documents	Legal Authorised Officer/Corporate Procurement Strategy	Legal Authorised Officer and Corporate Procurement Strategy	Legal Authorised Officer and Corporate Procurement Strategy	Service Manager	Service Manager
Short listing suppliers	Cabinet and the Procurement Board through the Annual Procurement Plan	Assistant Director and Corporate Procurement Strategy	Assistant Director and Corporate Procurement Strategy	Service Manager	Service Manager
Receipt of tenders and quotations	Legal Authorised Officer	Legal Authorised officer	Legal Authorised officer	Head of Service	Head of Service
Contract Award in accordance with Contract Procedure Rules (except theatre and arts)	Cabinet and the Procurement Board through the Annual Procurement Plan	Cabinet (unless on the Annual Procurement Plan)	Cabinet (unless on the Annual Procurement Plan)	Budget Authorised Officer	Budget Authorised Officer
Contract Award in accordance with CPR Theatre and Arts	N/A	N/A	Head of Service	Budget Authorised Officer	Budget Authorised Officer

<b>Process</b>	<b>Strategic Procurement</b>	<b>EU Threshold*</b>	<b>Over £100,000*</b>	<b>Over £10,000</b>	<b>Up to £10,000</b>
Waive Contract Procedure Rules	Council and the Procurement Board in accordance with Contract Procedure Rules	N/A	Council and the Procurement Board in accordance with Contract Procedure Rules	Director in accordance with Contract Procedure Rules	Director in accordance with Contract Procedure Rules
Apply an exemption to tendering requirements in an emergency	N/A	N/A	Director in accordance with Contract Procedure Rules	Director in accordance with Contract Procedure Rules	Director in accordance with Contract Procedure Rules
Apply an exemption – use of negotiated procedure	Assistant Director Law and Governance and Corporate Procurement Strategy	Assistant Director Law and Governance and Corporate Procurement Strategy	Assistant Director Law and Governance and Corporate Procurement Strategy	N/A	N/A
Draw up approved lists	N/A	N/A	Director in accordance with Contract Procedure Rules	Director in accordance with Contract Procedure Rules	Director in accordance with Contract Procedure Rules
Signature (except Theatre and Arts)	Seal/Legal Authorised Officer	Seal/Legal Authorised Officer	Seal/Legal Authorised Officer	Sign/Budget Authorised Officer	Sign/Budget Authorised Officer
Signature Theatre and Arts	N/A	Budget Authorised Officer	Budget Authorised Officer	Budget Authorised Officer	Budget Authorised Officer

<b>Process</b>	<b>Strategic Procurement</b>	<b>EU Threshold*</b>	<b>Over £100,000*</b>	<b>Over £10,000</b>	<b>Up to £10,000</b>
Non recovery of liquidated damages/settlement of formal claims	Legal Authorised Officer up to £100,000 per claim	Legal Authorised Officer up to £100,000 per claim	Legal Authorised Officer up to £100,000 per claim	Legal Authorised Officer up to £100,000 per claim	Legal Authorised Officer up to £100,000 per claim
Extension of Fixed Term Contracts	Cabinet	Cabinet	Cabinet	Service Manager/ Corporate Procurement Strategy	N/A
Bidding for External Contracts	N/A	Director and Legal Authorised Officer	Director and Legal Authorised Officer	Director	Head of Service

## EXCEPTIONS - PROPERTY

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

Process	Officer Delegation	Cabinet Approval	Council Approval	Secretary of State Approval
<b>Disposal and Acquisition of Land</b>				
Asset Management Plan	Management of the Plan – Assistant Director Economic Growth	Approval of the Plan		
Terms for any acquisition, disposal, sale of land and buildings	Negotiate subject to approval and Council policy.	Approval in accordance with Council policy and within existing budgets	Final approval where costs exceed MTFP	
Acquisition of land	Assistant Director Economic Growth up to £30,000 for strategic purposes or in accordance with approved schemes e.g. Highways	Over £30,000 within budgets and outside approved schemes	Final approval where costs exceed MTFP	

<b>Process</b>	<b>Officer Delegation</b>	<b>Cabinet Approval</b>	<b>Council Approval</b>	<b>Secretary of State Approval</b>
Dispose of land	With a value up to £30,000 where the land is not held for strategic purposes Assistant Director Economic Growth	With a value over £30,000 or where the land is held for strategic purposes		
Completion of documentation for the acquisition and disposal of property	Assistant Director Law and Governance			
Declaring property surplus to operational requirements	Assistant Director Economic Growth to prepare report for Cabinet	Approval Required		
External Consents to Disposal	Assistant Director Economic Growth and for School Playing fields Service Group Director of People			
Disposal Consent	Where value is achieved Assistant Director Economic Growth	Where under value is applicable and consent order applies or is under £2m	N/A	Where under value is more than £2 million unless the consent order



<b>Process</b>	<b>Officer Delegation</b>	<b>Cabinet Approval</b>	<b>Council Approval</b>	<b>Secretary of State Approval</b>
Receipt, retention, opening and acceptance of offers and tenders for land	Assistant Director Economic Growth in accordance with the Property Procedure Rules			
<b>Leases, Licenses etc</b>				
Grant leases and accept licenses, easements and way leaves	Assistant Director Economic Growth where favourable to the Council	Where not commercially favourable to the Council within existing budgets		
Agree terms for any lease or licence of land and buildings	Assistant Director Economic Growth	Approval within existing budgets		
Assignment of leases and sub-letting of leases	Assistant Director Economic Growth			
Vary lease and sale terms including rentals and grant retrospective consents	Assistant Director Economic Growth where favourable to the Council	Where not commercially favourable to the Council		

<b>Process</b>	<b>Officer Delegation</b>	<b>Cabinet Approval</b>	<b>Council Approval</b>	<b>Secretary of State Approval</b>
Renew Protected tenancies under the Landlord and Tenant Act 1954	Assistant Director Economic Growth where favourable to the interests of the Council	Where terms are not commercially favourable to the Council		
<b>Other Property Matters</b>				
Right to Buy Property Disposal	Assistant Director Law and Governance			
Administer the sale or demolition of Council garages	Assistant Director Housing and Revenues			
Approve changes of use	Assistant Director Economic Growth where planning permission has previously been granted or the use has deemed consent under the Use Classes Order			
Release, relax or vary restrictive and positive covenants on land or property	Assistant Director Economic Growth and where the value is £30,000 or above with the agreement of the Assistant Director Law and Governance			

<b>Process</b>	<b>Officer Delegation</b>	<b>Cabinet Approval</b>	<b>Council Approval</b>	<b>Secretary of State Approval</b>
Land Compensation Act Claims	Negotiate claims arising from Part 1 – Assistant Director Economic Growth  Take action to achieve a settlement in cases of dispute in relation to Part 1 claims – Assistant Director Law and Governance			
Naming and numbering of Streets	Assistant Director Highways and Capital Projects			
Settle claims of adverse possession and prescriptive easements by transfer of title	Assistant Director Law and Governance			
Signature of all documents, attesting of seal for deeds necessary to give effect to any decision of the Council	Assistant Director Law and Governance			

<b>Process</b>	<b>Officer Delegation</b>	<b>Cabinet Approval</b>	<b>Council Approval</b>	<b>Secretary of State Approval</b>
Actions in accordance with the Property Procedure Rules in cases of emergency	Assistant Director Economic Growth			

## EXCEPTIONS - FINANCE

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
<b>Capital Expenditure</b>							
In the event of a civil emergency incur revenue and capital expenditure outside existing budgets		Chief Executive	Chief Executive	Chief Executive	Chief Executive	Assistant Director	Assistant Director
Capital Expenditure under the Prudential Code	Where annual financing costs are outside resource allocations Cabinet/ Council	Cabinet	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
Capital Spending under the Prudential Code for assets which could otherwise be acquired under operating leases		Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations	Director in consultation with the Group Director of Operations
Authorise Feasibility Works	Cabinet	Cabinet	Cabinet	Cabinet	Director	Director	Director
Vary Capital Expenditure on Schemes		Cabinet (or over 10% of the total cost of the scheme)	Director (or within 10% of scheme – whichever is the lower)				
Sanction additional spending on Capital above approved budget on urgent items or where there will be a cost benefit		Cabinet	Cabinet	Chief Executive and Group Director of Operations	Chief Executive and Group Director of Operations	Chief Executive and Group Director of Operations	Chief Executive and Group Director of Operations

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
Approve capital expenditure in any one financial year for projects expected to have a net financial saving and where specific funding is in place	Cabinet over £250,000	Up to £250,000 where projects are expected to have a net financial saving and funding is in place Group Director of Operations	Where projects are expected to have a net financial saving and funding is in place Group Director of Operations	Where projects are expected to have a net financial saving and funding is in place Group Director of Operations	Where projects are expected to have a net financial saving and funding is in place Group Director of Operations	Where projects are expected to have a net financial saving and funding is in place Group Director of Operations	Where projects are expected to have a net financial saving and funding is in place Group Director of Operations

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
<b>Revenue</b>							
Manage Budgets within total allocated to them by Council		Director	Director	Director	Director	Director	Director
Increase in Departmental Revenue Resources		Cabinet	Cabinet	Cabinet	Cabinet	Cabinet	Cabinet
<b>Other</b>							
Ex gratia Payments			Cabinet	Cabinet	Cabinet	Director	Director
Write off Debts	N/A	Cabinet	Cabinet	Cabinet	Cabinet	Cabinet	Group Director of Operations. In relation to Car Parking, Director of Services
Negotiate and raise loans to the Council	N/A	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations



	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
Submit bids for funding to the relevant body where the deadline occurs prior to the next meeting Cabinet	N/A	Group Director of Operations	Any Assistant Director	Any Assistant Director	Any Assistant Director	Any Assistant Director	Any Assistant Director
To agree conditions, approve and sign agreements in relation to grant funding to be received by the Council	N/A	Group Director of Operations	Any Assistant Director	Any Assistant Director	Any Assistant Director	Any Assistant Director	
Write off any surplus or deficiencies in respect of any one item of stock	N/A	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations
Negotiate and manage leasing arrangements	N/A	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Any Assistant Director	Any Assistant Director

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
Invest any temporary surplus of monies until such monies are required	N/A	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations
Sign all cheques on behalf of the Council (in facsimile)	N/A	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations
Effect all necessary insurances	N/A	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations	Group Director of Operations
Settle all insurance claims	N/A	Group Director of Operations	Group Director of Operations	Any Assistant Director	Any Assistant Director	Any Assistant Director	Any Assistant Director
To vary the scale of fees and charges within year to reflect market conditions	N/A	Group Director of Operations	Group Director of Operations	All Assistant Directors	All Assistant Directors	All Assistant Directors	All Assistant Directors

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
To determine charges for Building Regulations in accordance with the scheme and regulations	N/A	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services
To determine charges for licensing scrap metal dealers and mobile collectors and site licences.	N/A	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services
To set and vary the fees and charges for the Council's licensing and registration functions that are the responsibility of that Committee	General Licensing Committee						

	<b>Outside Departmental Resource Allocations</b>	<b>Over £100,000</b>	<b>Up to £100,000</b>	<b>Up to £50,000</b>	<b>Up to £10,000</b>	<b>Up to £1,000</b>	<b>Up to £500</b>
To determine inter-authority charges in relation to Adult Social Care subject to them being not less than the standard charges		Assistant Director Adult Services	Assistant Director Adult Services	Assistant Director Adult Services	Assistant Director Adult Services	Assistant Director Adult Services	Assistant Director Adult Services
Operate Cultural Services/Businesses on a commercial basis	Cabinet	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services	Assistant Director Community Services	Assistant Director Community Services
Provide grants and make charges for services provided to Resident Groups recognised by and working in partnership with the Council	Cabinet	Group Director of Services	Group Director of Services	Group Director of Services	Group Director of Services	All Assistant Directors in consultation with the Group Director of Services	All Assistant Directors in consultation with the Group Director of Services

**EXCEPTIONS - STAFF AND EMPLOYMENT**

	<b>Officer Delegation</b>	<b>Statutory Executive Member Consultation</b>	<b>Member Decision</b>	<b>Council Decision</b>
<b>NB This element of the scheme is dictated by 2 LGHA 1989 and the Standing Orders Regulations</b>				
The advertising of a new post with a salary package exceeding £100,000	Cannot be delegated to Officers	Yes through the Assistant Director Law and Governance	Yes must be made by Full Council	A majority vote at Full Council is required giving approval for a post with a salary exceeding £100,000 to be advertised.
The appointment of the Chief Executive	Cannot be delegated to Officers	Yes through the Assistant Director Law and Governance	Yes must be made by Full Council	On recommendation from the Human Resources Committee
The appointment of Chief Officers (Directors, and other Chief Officer and statutory officers)	Where the Council proposes to appoint a Chief Officer exclusively from among the existing Officers	Yes through the Assistant Director Law and Governance	Human Resources Chief Officer Appointments Panel	Can be decided by Council
The appointment of Deputy Chief Officers (Assistant Directors)	Can be but has not been delegated to Officers	Yes through the Assistant Director Law and Governance	Human Resources Panel	Can be decided by Council
Appointment below Deputy Chief Officer (DCO)	Yes	Members cannot be involved in the appointments below DCO	Members cannot be involved in the appointments below DCO	Members cannot be involved in the appointments below DCO

	<b>Officer Delegation</b>	<b>Statutory Executive Member Consultation</b>	<b>Member Decision</b>	<b>Council Decision</b>
The dismissal of the Chief Executive (as Head of Paid Service),	Cannot be delegated to Officers	Yes	An independent report must be prepared before a decision can be made	Special Meeting of Council must be convened
Dismissal of the S151 Officer (Group Director of Operations) and the Monitoring Officer (Assistant Director, Law and Governance)	Cannot be delegated to Officers	Yes through the Assistant Director Law and Governance	Human Resources Chief Officer Appointment Panel. An independent report must be prepared before a decision can be made	Can be taken by Full Council
The dismissal of Chief Officers	Chief Executive	Yes through the Assistant Director Law and Governance	Human Resources Chief Officer Appointment Panel	Can be taken by Full Council
Dismissal of Deputy Chief Officers	Directors	Yes through the Assistant Director Law and Governance	Human Resources Panel	Can be taken by Full Council

	<b>Officer Delegation</b>	<b>Statutory Executive Member Consultation</b>	<b>Member Decision</b>	<b>Council Decision</b>
Dismissal by way of redundancy or voluntary redundancy for Chief Officers and Deputy Chief Officers	Yes unless the severance packaged exceeds £100,000	Yes through the Assistant Director Law and Governance	Can be taken by Members but is currently delegated to Officers	Can be taken by Members but is currently delegated to Officers  Any severance package exceeding £100,000 must be voted upon by Full Council
Dismissal of staff below Deputy Chief Officer	Yes	No	Members cannot be involved in the dismissal below DCO (other than as an appeals panel)	Members cannot be involved in the dismissal below DCO (other than as an appeals panel)
Determine Appeals against final written warnings	Group Director of Operations			
Issue HR 1 notices in respect of potential redundancies	Group Director of Operations			
Implement immediate action to ensure the safety of staff up to £1,000 from the existing revenue budget	Directors			

	<b>Officer Delegation</b>	<b>Statutory Executive Member Consultation</b>	<b>Member Decision</b>	<b>Council Decision</b>
To carry out powers and duties under the Health and Safety at Work etc Act	As an employer – All Directors and otherwise than as an employer – Group Director of Services			
Issue ‘certificates of opinion’ as to whether or not the duties of a post fall within the criteria of political sensitivity	Assistant Director Law and Governance			



## EXCEPTIONS - LEGAL EXCEPTIONS

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
Determine all applications made under powers and duties of the local planning authority and planning legislation in relation to applications and enforcement	<p>Except where the decision would be contrary to any of the following :-</p> <ul style="list-style-type: none"> <li>a) any development plan in force;</li> <li>b) any other approved policies of the Council; or</li> <li>c) the recommendation of a statutory consultee with the exception of a Parish Council;</li> </ul> <p>or where the following circumstances are met :-</p> <ul style="list-style-type: none"> <li>a) where it is proposed to grant permission (other than applications for prior approval) when more than 2 objections are received from Members of the public resident in different properties;</li> <li>b) where it is proposed to refuse permission (other than applications for prior approval) when more than 2 letters of support are received from</li> </ul>	Determine applications not delegated to officers		

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
	<p>Members of the public resident in different properties;</p> <p>or any determination where :-</p> <p>a) a Member requests, in writing, giving planning related reasons, that a planning application be determined by the Planning Applications Committee or;</p> <p>b) it is proposed to grant permission when an objection is received from a Parish Council or one or two objections are received from members of the public resident in different properties; or</p> <p>c) to refuse permission when a letter or support is received from a Parish Council or one or two letters of support are received from members of the public resident in different properties shall be subject to consultation with the Chair or Vice-Chair of the Planning Applications Committee.</p> <p>.</p> <p>Assistant Director Economic Growth</p>			

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
Determine details required by conditions imposed on any permission.	Assistant Director Economic Growth			
Determine minor amendments to approved plans where these do not materially alter the form of the approved development	Assistant Director Economic Growth			
All powers and functions of the Authority in respect hackney carriage and private hire licensing matters	<p>Except where:  an applicant has relevant convictions/cautions or a current licence holder is similarly convicted/cautioned and/or where an applicant for, or the current holder of a Hackney Carriage/Private Hire drivers licence has nine or more points on their DVLA driving licence</p> <p>Assistant Director Community Services</p>		In all other cases where it is appropriate	
All powers and functions in respect of the Scrap Metal Dealers Act 2013.	Except contested licensing applications, variations and revocations, which are dealt with by a Senior Officer (in most circumstances to be the Licensing, Parking, Trading Standards and CCTV Manager) to be appointed by the Assistant Director Community Services			

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
Make applications to the Court of Protection for Receivership Orders in relation to clients lacking mental capacity to carry out their financial affairs	Assistant Director Adult Services			
Apply to become an appointee in relation to clients lacking capacity to carry out their financial affairs	Assistant Director Adult Services			
Carry out the health functions delegated to the Authority by an NHS body under arrangements between NHS bodies and local authorities pursuant to section 31 Health Act 1999	Assistant Director Adult Services			
Determine liability, demand payment, make arrangements for collection and take action for recovery of Council Tax and Non-Domestic Rates	Assistant Director (Housing and Revenues)			
Defend and/or settle all claims made against the Council up to £100,000	Assistant Director Law and Governance			Over £100,000

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
To approve Public Spaces Protection Orders (PSPO's), unless they are likely to be considered to be sensitive or significant.	Assistant Director Community Services			In cases considered to be sensitive or significant

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
Issue proceedings, prosecute, defend, conduct, withdraw, settle or appeal any legal proceedings or process on behalf of the Council	Assistant Director Law and Governance			
Institute criminal proceedings in respect of offences against any legislation (including byelaws) which the Council is allowed to enforce, or which any of the Queen's subjects may prosecute; and offences of common assault on behalf of an employee, if so required	Assistant Director Law and Governance			

	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
Authorise any Officer of the Council to prosecute, or defend on its behalf, or to appear on its behalf in, proceedings before a Magistrates Court, in accordance with Section 223 of the Local Government Act 1972	Assistant Director Law and Governance			
Make orders or take any other steps in relation to any legislation when instructed by the officer with the relevant area of responsibility	Assistant Director Law and Governance			
Appoint Education Appeal Panel members, in accordance with the provisions of the Education (Admission Appeals Arrangements) (England) (Regulations 2002), as amended, such appointments to last for a period of three years then membership be re-assessed and re-appointments made as appropriate	Assistant Director Law and Governance			

<p>Under the Road Traffic Regulation Act 1984 to make any orders for the regulation of traffic</p>	<p>Assistant Director Highways and Capital Projects UNLESS any objections are received</p>			<p>Where objections are received and Cabinet are legally able to consider the objections</p>
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	<b>Officer</b>	<b>Planning Committee</b>	<b>Licensing Committee</b>	<b>Cabinet</b>
Determining new applications for inclusion on the register of village greens (under the Commons Registration Act 2006). If an objection is received an independent Inspector shall be appointed to determine the application.	Assistant Director Law and Governance			
To carry out powers in relation to assets of community value under Part 5 Chapter 3 of the Localism Act 2011.	<p>Powers to determine whether an asset should be placed on the list - Head of Service</p> <p>Powers to determine reviews - Assistant Director Law and Governance</p>			
<b>Exceptions in relation to specific Projects (which last more than six months)</b>				
In relation to the Tees Valley Bus Network	Addition, deletion or modification of schemes for Darlington each year subject to the overall benefits in the business case being maintained – Group Director of Services			
In relation to the Local Transport Plan	Variation of schemes and programme – Group Director of Services			
In relation to the Planning Obligations Supplementary Planning Document :	Variation of schemes and projects each financial year subject to planning obligation requirements being delivered –			

Infrastructure Projects List	Group Director of Services			
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## The Statutory and Proper Officers

### Designated Posts

<b>Legislation</b>	<b>Function</b>	<b>Designated Officer</b>
Section 4(1) Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
Section 151 Local Government Act 1972	Chief Finance Officer	Group Director of Operations
Section 5(1) Local Government and Housing Act 1989	Monitoring Officer	Assistant Director Law and Governance
Section 9FB of the Localism Act 2011	Scrutiny Officer	Democratic Manager
Section 35 Representation of the People Act 1983	Returning Officer	Assistant Director Law and Governance
Section 8 Representation of the People Act 1983	Electoral Registration Officer	Assistant Director Law and Governance
Section 6(1) Local Authority Social Services Act 1970	Director of Adult Social Services	Group Director of People
Section 18 Children Act 2004	Director of Children's Services	Group Director of People
Section 532 Education Act 1996	Chief Education Officer	Group Director of People
Health and Social Care Act 2012		Director of Public Health
Data Protection Act 2018 General Data Protection	Data Protection Officer	Complaints and Information Governance Manager

Regulation		
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## NOTES

1. Section 113 of the Local Government Finance Act 1988 provides that the Chief Finance Officer must also be the Council Tax Registration Officer.
2. Under Section 114 of the Local Government and Finance Act 1988 the Chief Finance Officer must nominate a suitably qualified member of his staff to carry out his duties under that Section when he is unable to act through absence or illness.
3. Under Section 5(7) of the Local Government and Housing Act 1989 the Monitoring Officer must nominate a deputy to act when he is unable through absence or illness to fulfil the role himself.
4. Under Section 35 of the Representation of the People Act 1983 the Returning Officer may appoint deputies to assist him in his duties.
5. Under Section 52(2) of the Representation of the People Act 1983 the Electoral Registration Officer may appoint deputies to assist him in his duties.
6. Under Section 24 of the Representation of the People Act 1983 the Returning Officer at a parliamentary election is the Chairman of the Council. However, under Section 28 of that Act, the Electoral Registration Officer may discharge the functions of the Returning Officer as Acting Returning Officer. Under sub-section (5) the Acting Returning Officer has power to appoint deputies.

## Proper Officers

Legislation	Function	Proper Officer
<b>Local Government Act 1972</b>		
Section 83(1) to (4)	Provides that a declaration in the prescribed form of acceptance of office of Chairman, Vice-Chairman or councillor just be made by councillors to the proper officer.	Assistant Director Law and Governance
Section 13(3)	Parish Trustee	Assistant Director Law and Governance
Section 84	Written notice of resignation must be given by councillors to the proper officer.	Assistant Director Law and Governance
Section 88	Gives the proper officer power to convene a meeting for purpose of filling a casual vacancy in case of Chairman of the Council.	Assistant Director Law and Governance
Section 89	Makes provision for the proper officer to accept notice in writing of the casual vacancy occurring in the office of Councillor.	Assistant Director Law and Governance
Section 100(A) to (F)	Concerned with the provision of information about the decisions made or to be made by councillors including access to agenda, reports, background papers, members additional document access rights, minutes and records of decisions	Assistant Director Law and Governance

<b>Legislation</b>	<b>Function</b>	<b>Proper Officer</b>
Section 115(2)	Provides that the proper officer shall receive any monies held or received by officers. during the course of employment, or shall issue directions as to whom the monies should be paid	Group Director of Operations
Section 137(a)	Gives the proper officer power to require a voluntary organisation or similar body to supply information to him, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum	Group Director of Operations
Section 146	Provides that the proper officer is to make a statutory declaration certificate, securities. etc. to be transferred on change of name of local authority or change of area	Group Director of Operations
Section 210(6) and (7)	Appoints the proper officer to be vested with certain powers in respect of charities	Chief Executive
Section 225	Imposes a duty on the proper officer to receive and retain documents deposited with him pursuant to standing orders of either House of Parliament or any statute or instrument	Assistant Director Law and Governance
Section 229(5)	Provides that the proper officer must certify any photographic copies of documents	Assistant Director Law and Governance

<b>Legislation</b>	<b>Function</b>	<b>Proper Officer</b>
Section 234(1)	Provides that any notice, order or other document which a local authority are authorised or required to give under any enactment may be signed on behalf of the authority by the proper officer	Assistant Director Law and Governance
Section 238	Provides that printed copies of bylaws are endorsed with a certificate signed by the proper officer	Assistant Director Law and Governance
Section 248	Provides that the proper officer must keep the roll of freemen of the town	Assistant Director Law and Governance
Schedule 12, Section 99	Contains provisions governing conduct of meetings, including requirements for notices to be given by proper officer in subsection (3), and the appointment of the proper officer to sign summons to attend meetings of the Council. and specifying the proposed business	Assistant Director Law and Governance
Schedule 14 (Section 180)	Provides that the proper officer has to certify true copies of resolutions under the Public Health Acts 1875 to 1925	Assistant Director Law and Governance
Schedule 29 Section 41	Proper Officer for Births, Marriages and Deaths	Assistant Director Law and Governance
<b>Local Government Act 1974</b>		
Section 30	Provides that the proper officer must give public notice of the ombudsman's reports	Assistant Director Law and Governance



Legislation	Function	Proper Officer
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41(1)	Provides that copy resolutions and Minutes may be certified by the proper officer or a person authorised in that behalf by him or the authority	Assistant Director Law and Governance
<b>Local Land Charges Act 1975</b>		
Section 3	Requires each registering authority to maintain a local land charges register. This duty falls on the local authority itself and not on the "proper officer"	Assistant Director Law and Governance
<b>Local Authorities Cemeteries Order 1977</b>		
Regulation 10	To sign exclusive rights of burial	Assistant Director Law and Governance
<b>Representation of the People Act 1983</b>		
Section 67 (7)(b)	Receipt of notice of an election agent for local elections	Assistant Director Law and Governance
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Assistant Director Law and Governance
Section 128	Provides that a copy of any petition questioning a local government election shall be sent to proper officer who shall publish it in the local authority area	Assistant Director Law and Governance
<b>Local Elections (Principal Area) Rules 1986</b>		
	Retention and public inspection of documents after an election	Assistant Director Law and Governance

Legislation	Function	Proper Officer
<b>Local Elections (Parishes and Communities) Rules 1986</b>		
	Retention and public inspection of documents after an election	Assistant Director Law and Governance
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	For the purposes of the composition of committees and nominations to political groups	Assistant Director Law and Governance
<b>Local Government Finance Act 1988</b>		
Section 116	Provides that the proper officer must give the authority's auditor notice of meetings held under S115	Assistant Director Law and Governance
<b>Schedule 4</b>		
Section (10)(1) Paragraphs 6 - 8	Where notice has to be served on the Council concerning the acquisition of way leaves over Council-owned land	Group Director of Services
Section 10(1) Paragraph 9	Where notice has to be served on the Council concerning the felling and lopping of trees etc.	Group Director of Services
<b>Schedule 8</b>		
Section 36 (8) Paragraph 1	Where applications have to be made for consent to construct generating stations on Council-owned land	Group Director of Services
Section 36(8) Paragraph 2	Where applications for consent have to be served on the local planning authority	Group Director of Services

Legislation	Function	Proper Officer
<b>Local Government and Housing Act 1989</b>		
Section 2(4)	Provides that a local authority must deposit and keep up to date a list of politically restricted posts with the proper officer	Assistant Director Law and Governance
<b>Highways Act 1980</b>		
	These provisions fall within the terms of the agreement with Darlington Borough Council. Any notice, consent, etc. may be signed on or behalf of the Council by the proper officer or any officer of the Council authorised in writing so to do	Assistant Director Highways and Capital Projects
Section 37	Provides that a certificate issued under subsection (3) or an order made under subsection (4) shall be deposited with the proper officer	Assistant Director Highways and Capital Projects
Section 295	Gives power to remove certain materials from highways after proper officer has given notice	Assistant Director Highways and Capital Projects
Schedule 9 and Sections 73 and 74	Provide that the proper officer shall sign the plan showing the building or improvement line for widening of streets	Assistant Director Highways and Capital Projects
<b>Building Act 1984</b>		
Section 61	Provides that the proper officer or any other authorised officer to be given free access to works of repairs to an underground drain	Group Director of Services

Legislation	Function	Proper Officer
Section 78(8)	Provides that the proper officer may as an officer of the local authority exercise powers under sub-section (1) to take action with regard to a dangerous building	Group Director of Services
Section 93	Provides that notices and other documents under this Act may be signed by the proper officer or by an officer authorised by him in writing	Group Director of Services
<b>Public Health (Control of Diseases) Act 1984 as amended by Health and Social Care Act 2008</b>		
Section 48	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Group Director of Services appointee
Section 61	Right to enter premises to ascertain whether there has been a contravention of a provision of the 1984 Act or a Part 2A order made pursuant to the 1984 Act.	Group Director of Services appointee

<b>The Health Protection (Notification) Regulations 2010</b>		
Regulations 2, 3, and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Group Director of Services appointee
<b>The Public Health (Aircraft Regulations) 1979 (as amended)</b>		
Regulations 7, 8, 9, 14, 18, 20, 21 and 22	Prevent the spread of infection associated with air travel	Director of Public Health
<b>Housing Act 1985</b>		
Part XVII	Reports to local authority about unfit housing	Group Director of Operations
<b>Food Safety Act 1990</b>		
Section 49(3)	Any document which a food authority are authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority (a) by the proper officer of the authority as respects documents relating to matters within his province; or (b) by any officer of the authority authorised by them in writing to sign documents of the particular kind, or, as the case may be, the particular document	Group Director of Services
<b>Local Authorities (Standing Orders)(England) Regulations 2001</b>		
	Officer who will give written notice of appointment or dismissal of officers listed in Schedule 1, Part II, paragraph 3	Assistant Director Law and Governance

<b>Local Government Act 2000</b>		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Assistant Director Law and Governance
<b>Health Act 2006</b>		
Section 10(3)	“It is the duty of an enforcement authority to enforce, as respects the premises, places and vehicles in relation to which it has enforcement functions, the provisions of this Chapter (smoke free premises) and regulations made under it”	Group Director of Services Appointee
Section 10(5)	In this Chapter, “authorised officer”, in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under this Chapter	Group Director of Services Appointee
Section 10(7)	Refers to Schedule 2 which lists the powers of entry, etc.	Group Director of Services Appointee
Section 10(9)(1)	“An authorised officer of an enforcement authority (see section 10) who has reason to believe that a person has committed an offence under section 6(5) or 7(2) on premises, or in a place or vehicle, in relation to which the authorised officer has functions may give him a penalty notice in respect of the offence”	Group Director of Services Appointee

<b>Smoke-free (Premises and Enforcement) Regulations 2006</b>		
Regulation 3	To carry out the functions of an enforcement authority under Regulation 3	Group Director of Services
<b>Landlord and Tenant Acts</b>		
	To be the proper officer to serve and receive notices on behalf of the Council for the purposes of S23 of the Landlord and Tenant Act 1927 and S66 of the Landlord and Tenant Act 1954	Group Director of Services
<b>Scrap Metal Dealers Act 2013</b>		
	To carry out the functions under the Scrap Metal Dealers Act 2013	Group Director of Services
<b>Weights and Measures Act 1985</b>		
Section 72(1)(a)	Chief Inspector of Weights and Measures	Group Director of Services Appointee
<b>Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018</b>		
Section 72(1)(a)	To carry out the functions under the Act as the enforcement authority	Group Director of Services Appointee

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# **Council Procedure Rules**

## **ANNUAL MEETING OF THE COUNCIL**

### **Timing and Business**

1. 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 on a suitable Thursday in May at 6.00 p.m.

The Annual Meeting will :-

- (a) elect a person to preside if the Mayor is not present;
- (b) elect the Mayor of the Council;
- (c) elect the Deputy Mayor of the Council;
- (d) receive any announcements from the Mayor and/or the Chief Executive
- (e) in an election year, elect the Leader, of the Council for a four year term of office;
- (f) appoint the Cabinet, Scrutiny Committees, Quasi-Judicial Committees and Statutory and Subsidiary bodies as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions;
- (g) approve a programme of ordinary meetings of the Council for the Municipal Year; and
- (h) consider any business set out in the notice convening the meeting.

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

2. At the Annual Meeting, the Council meeting will :-
  - (a) appoint to those Committees established in accordance with the political balance rules; and
  - (b) appoint to those Committees and outside bodies (which are Council appointments).

## **ORDINARY MEETINGS OF THE COUNCIL**

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

## **Order of Business**

4. The order of business at every ordinary meeting of the Council shall be :-
  - (a) to choose a person to preside if both the Mayor and Deputy Mayor are absent;
  - (b) to receive apologies for absence;
  - (c) to receive any declarations of interests from Members;
  - (d) to deal with any item of business required by statute to be done before any other business;
  - (e) to approve, as a correct record, and sign the Minutes of the last meeting of the Council;
  - (f) Mayor's announcements;
  - (g) Chief Executive's announcements;
  - (h) to make an Order to seal documents;
  - (i) to receive questions from, and provide answers to, members of the public in relation to matters which, in the opinion of the person presiding at the meeting, are relevant to the business of the Council;

- (j) deal with any business from the last Council meeting;
  - (k) to debate policy and strategy reports;
  - (l) to consider any Cabinet recommendations and reports;
  - (m) to receive reports from the individual Cabinet Members and Scrutiny Chairs on their workings and receive questions and answers on those reports;
  - (n) to consider any reports and recommendations of Scrutiny Committees;
  - (o) to consider motions in the order in which notice has been received; and
  - (p) questions to the Police, Crime and Victims Commissioner in accordance with the Police Reform and Social Responsibility Act 2011; and
  - (q) any other business, if any, specified in the Agenda.
5. The Mayor may, at their discretion, amend the order of business. This may also be done by the Council approving a motion moved and seconded but not discussed.

## **EXTRAORDINARY MEETINGS**

6. Extraordinary Meetings may be called by the Mayor, or upon the signed written requisition of five Members of the Council, and shall be held on such date and at such time as may be determined by the Mayor. If the Mayor should refuse or neglect to call an Extraordinary Meeting within seven working days of receipt of such a requisition, any five Members of the Council may call an Extraordinary Meeting on such date and at such time as those Members may determine. When any Extraordinary Meeting of the Council is called, the next following meeting of the Council shall be treated as a suitable meeting for the purpose of the signing of the Minutes of the Extraordinary Meeting.

## **SPECIAL MEETINGS**

7. Special Meetings may be called by the Mayor for a specific purpose and shall be held on such date and at such time as may be determined by the Mayor.

## **CANCELLATION OF COUNCIL MEETINGS**

8. The Mayor or the Deputy Mayor (in the Mayor's absence) can postpone, re-arrange or cancel a meeting of Council, provided that the required notice of meeting is given. Chairs or Vice-Chairs (in the Chair's absence) of the relevant committee can postpone, re-arrange or cancel meetings of a committee. A meeting of the Council or its committees or sub-committees may not be cancelled or postponed after the meeting has been duly convened.

## **TIME AND PLACE OF MEETINGS**

9. The time and place of meetings will be determined by the Assistant Director Law and Governance and notified in the Summons.

## **NOTICE OF AND SUMMONS TO MEETINGS**

10. The Council will give at least five days clear working days' notice of any meeting by posting details of the meeting at the public office of the Council (Town Hall, Darlington), in accordance with the Access to Information Procedure Rules.

## **CHAIR OF MEETINGS**

11. Any power or duty of the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

## **QUORUM OF COUNCIL**

12. The quorum at a meeting of the Council is one quarter of the membership. If the meeting lacks a quorum, its business shall be adjourned to a time fixed by the Mayor at the time the meeting is adjourned, or, if the Mayor does not fix a time, to the next ordinary meeting of the Council or to a Special meeting convened for that purpose.

## **QUESTIONS BY THE PUBLIC**

### **General**

13. Any person can ask a question of the Leader, Members of the Cabinet, or the Chair of a Committee at ordinary, extraordinary and special meetings of the Council.

### **Order of Questions**

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

### **Notice of Questions**

15. A question may only be asked if 24 hours' notice has been given by delivering the question in writing or by electronic mail to Democratic Services no later than 6 p.m. on the day 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.

### **Scope of Questions**

16. The Assistant Director Law and Governance may reject a question if it :-
- (a) is not about a matter for which the Local Authority has a responsibility or which affects the Borough;
  - (b) is defamatory, frivolous or offensive;
  - (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - (d) requires the disclosure of confidential or exempt information.

## **Record of Questions**

17. The Assistant Director Law and Governance will keep a record of questions asked (available for 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.

## **Asking the Question at the Meeting**

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

## **Supplementary Question**

19. 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 Mayor may reject a supplementary question on any of the grounds set out under the title Scope of Questions above.

## **Written Answers**

20. 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.

## **Reference of Question to Cabinet or a Committee**

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

## **NOTICE OF MOTION**

22. A Motion given on notice, must be given in writing to the Assistant Director Law and Governance, at least seven clear working days (that is not counting the day of the meeting or the day of delivery) before the relevant meeting and be signed by the Member(s) giving the notice.
23. The Assistant Director Law and Governance shall :-
  - (a) make each Notice of Motion available for public inspection; and
  - (b) set out in the Council Summons, all Motions which comply with above, in the order in which they have been received, unless the Member(s) have, in writing, either withdrawn it or stated a wish to move it to a later meeting.
24. If a motion set out in the Summons is not moved by the Member(s) who gave notice thereof, it shall be treated as withdrawn and shall not be moved without fresh notice.
25. Motions containing subjects falling within the powers and duties of Cabinet or a Quasi-Judicial Committee shall, after being moved and seconded, be automatically referred to the Cabinet or Quasi-Judicial Committee. However, the Mayor has the power to allow them to be dealt with at the Council meeting.
26. If a submitted motion is similar to one which has been rejected by the Council less than six months or earlier it will not be included in the Summons.

### **Exclusion of Notices of Motion Out of Order**

27. The Mayor, on the advice of the Assistant Director Law and Governance, may exclude from the Council Summons any notice of motion which may be out of order, or they may make such corrections therein as will bring it into due form with the approval of the mover(s).

## **Motions and Amendments which may be Moved without Notice**

28. The following Motions and amendments may be moved without notice :-

- (a) appointment of a Chair for that meeting or the remainder of the meeting;
- (b) dealing with routine business;
- (c) Motions relating to the variation of the order of business;
- (d) approval or otherwise of Cabinet recommendations, Scrutiny Committee reports and recommendations and policy and strategy reports;
- (e) the referral of an item to Cabinet or a Quasi-Judicial Committee;
- (f) that leave be given to withdraw a motion or amendment;
- (g) amendments to motions;
- (h) to move onto the next item on the agenda;
- (i) to put the question immediately to the vote;
- (j) to adjourn the debate;
- (k) to adjourn the meeting;
- (l) to suspend one or more of these Rules in accordance with Rule No. 106 below;
- (m) to exclude the public from the meeting under Section 100A(4) of the Local Government Act 1972 (as amended);
- (n) authorise the sealing of documents;
- (o) under Nos. 94 to 96 below by which the Mayor requires a Member to leave the meeting; and
- (p) to give any consent required by these Rules.



## **POLICY AND STRATEGY REPORTS**

29. Policy and strategy reports shall be introduced to the Council by the Chief Officer (or their nominee).
30. Members will be invited to ask questions of a technical or factual nature to which the Chief Officer (or their nominee) will reply.
31. The Cabinet Member will move the recommendations and speak to the report.
32. The recommendations will then be seconded.
33. Members will then be invited to enter into discussion to which the Cabinet Member (or their nominee) will reply.
34. Members who have asked questions of the Chief Officer shall not be precluded from discussion.
35. Following the replies to discussion the recommendations in the reports will be put to the vote.

## **CABINET RECOMMENDATIONS**

36. Cabinet recommendations will be moved by the Leader or relevant Cabinet Member.
37. Those recommendations will then be seconded.
38. Members will then be invited to ask questions of a technical or factual nature to which the relevant Chief Officer (or their nominee) will reply.
39. Members will then be invited to enter into discussion to which the mover of the recommendation (or their nominee) will reply.
40. Members who have asked questions of the Chief Officer shall not be precluded from discussion.
41. Following the reply to any discussion by the mover (or their nominee), the Cabinet recommendations will be put to the vote.

## **SCRUTINY COMMITTEE'S RECOMMENDATIONS**

42. The Chair or other Committee Member will move the recommendations and speak to the report.
43. The recommendations will then be seconded.
44. Members will be invited to ask questions of a technical or factual nature to which the relevant Chief Officer (or their nominee) will reply.
45. Members will then be invited to enter into discussion to which the mover of the recommendation (or their nominee) will reply.
46. Members who have asked questions shall not be precluded from discussion.
47. Following the reply to any discussion, the Committee's recommendations will be put to the vote.

## **CABINET/SCRUTINY COMMITTEE UPDATE REPORTS**

48. Following the introduction of the report by the relevant Cabinet Member/Scrutiny Chair, Members will be given the opportunity to comment and ask questions.
49. Questions can be asked and made comments on any aspect of the relevant Cabinet Member's portfolio or the remit of the relevant Scrutiny Committee.
50. The Cabinet Member/Scrutiny Chair will reply although a full reply may need to be deferred if prior notice has not been given to the relevant Cabinet Member/Scrutiny Chair.

## **MEMBERS' QUESTIONS**

### **General**

51. Members may ask the Mayor or Cabinet Member, any question which is relevant to the Council's powers or duties, or which affects the Borough in some way, providing the Mayor or Cabinet Member has had at least one clear working day's notice, in writing (or via electronic mail). Questions should be directed to the Assistant Director Law and Governance via the Democratic Manager.

52. No discussion will be allowed following questions under this Rule.

### **Asking the Question at the Meeting**

53. The Mayor will invite the Councillor to put the question to the Member named in the notice.

### **Supplementary Question**

54. A Councillor who has put a question may also put one supplementary question without notice to the Members who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any grounds in scope of questions in 16 above.

### **MEMBERS TO BE SEATED**

55. A Member/Community representative, when speaking, shall, normally, stand and address the Mayor. If two or more Members rise, the Mayor shall call on one to speak; the other or others shall then sit. Whilst a Member is speaking, the other Members shall remain seated, unless rising to a point of order or in personal explanation.
56. If the Mayor calls a Member to order or for the purpose of directing the course of the proceedings, the Member speaking shall thereupon resume their seat.
57. If a Member rises to a point of order, such Member shall resume their seat immediately on the Mayor giving his/her decision.

### **RULES OF DEBATE FOR COUNCIL MEETINGS**

#### **Motions and Amendments**

58. Every motion and amendment (except a procedural motion) must be moved and seconded before any debate can take place thereon and, immediately after such motion or amendment has been seconded, the same shall be put in writing, signed by the proposer and handed to the Assistant Director Law and Governance prior to any discussion. The mover of a motion shall :-

- (a) if no amendment is moved, have a right to reply at the close of the debate thereon; and
  - (b) if an amendment is moved, have a right to speak during, and a right to reply to, the debate thereon, provided that they shall be entitled to reply to the debate on any second or subsequent amendment, only so long as the motion remains the substantive question before the meeting. If an amendment is carried, the right to speak and to reply hereby conferred shall pass to the mover of the amendment, which has become the substantive question for the time being.
59. Any reply to the debate shall not introduce new matter. After the reply, the question shall be put without further debate.

### **Method of Dealing with Amendments**

- 60. When an amendment is moved, it shall be dealt with before any further ones are moved.
- 61. When an amendment is carried, it shall become the substantive motion, following which further amendments can be moved and dealt with.
- 62. If no further amendments are moved, the Council will then vote on the substantive motion (i.e. either the original motion or the amended one).
- 63. All amendments must relate to the subject matter of the motion.
- 64. The Mover of an amendment must state at the beginning of his/her speech that he/she proposes to put forward an amendment.
- 65. Amendments must raise issues which are different from those contained in amendments which have been lost.
- 66. They must either add and/or delete words from the motion or refer the matter to Cabinet or Quasi-Judicial Committee for consideration/reconsideration.
- 67. Amendments which amount to direct negatives to motions are not permitted.
- 68. A Member moving a motion (but not one of which they have given notice) can, with the approval of Council (given without discussion)

and their seconder, alter the motion if the alteration is one which could be made as an amendment.

69. The mover of a motion for the approval of Cabinet recommendations may if they wish, include suggested amendments to the recommendations.

### **Seconder may reserve his/her Speech**

70. A Member when seconding a motion or amendment may, if they then declare their intention to do so, reserve their speech until a later period of the debate.

### **Content of Speeches**

71. When a Member speaks, they must confine their remarks to the question then under discussion and if, after the Mayor has drawn the attention of the Member to a contravention of this Rule, the Member further contravenes, the Mayor may rule the Member out of order and require they to resume their seat. The Member shall then take no further part in the discussion of the question.

### **When a Member may speak again**

72. A Member who has spoken on any motion or amendment shall not speak again whilst it is the subject of debate, except :-
- (a) on a point of order;
  - (b) by way of personal explanation in reply to points made during debate;
  - (c) to speak once on any amendment moved by another Member;  
or
  - (d) if their first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which they spoke was carried.

## **Withdrawal of Motion**

73. A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council, which shall be signified without discussion, and no Member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

## **Motions which may be moved during Debate**

74. When a motion is under debate no other motion shall be moved except the following :-
- (a) to amend the motion;
  - (b) to adjourn the meeting;
  - (c) to adjourn the debate;
  - (d) to proceed to the next business;
  - (e) that the question be now put to the vote;
  - (f) that a Member be removed;
  - (g) a motion, under Section 100A(4) of the Local Government Act 1972 (as amended), to exclude the public;
  - (h) to withdraw or amend a motion or amendment; or
  - (i) a motion that the ruling of the Mayor under 80 and 104 below shall be of no effect.

## **Closure Motions**

75. A Member who has the right to speak may move, without comment, at the conclusion of a speech of another Member :-
- (a) that the Council proceed to the next business;
  - (b) that the debate be now adjourned;
  - (c) that the Council do now adjourn; and

- (d) that the public be excluded on the grounds that the item involves the likely disclosure of exempt information as defined in paragraph . . . . . of Part I of Schedule 12A of the Local Government Act 1972 (as amended)

on the seconding of which the Mayor shall proceed as follows :-

- (i) on a motion to proceed to the next business: unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first give the mover of the original motion a right of reply and then put to the vote the motion to proceed to the next business;
- (ii) on a motion to adjourn the debate or the meeting: if, in their opinion, the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, they shall put the adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion. No amendment may be proposed thereto and it shall not be competent for a Member under cover of a motion of adjournment to discuss any other subject; and
- (iii) on a motion to exclude the public on the grounds that the item involves the likely disclosure of exempt information as defined in paragraph . . . . . of Part I of Schedule 12A of the Local Government Act 1972 (as amended): he/she shall put the motion to the vote forthwith.

76. On resuming an adjourned debate, the Member who moved its adjournment shall be entitled to speak first.

77. A Member who has the right to speak may move, without comment, at the conclusion of a speech of another Member and after at least two Members, in addition to the mover and seconder, have spoken on any motion or amendment 'That the question be now put to the vote', on the seconding of which the Mayor shall proceed as follows :-

unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first put to the vote the motion that the question be now put to the vote and, if it is passed, then give the mover of the original motion their right to reply before putting the motion to the vote.

### **Points of Order**

78. A Member may rise to a point of order or in personal explanation, but a personal explanation shall be confined to some material part of a former speech by them at the same meeting which may have been misunderstood or misquoted. A Member so rising shall be entitled to be heard forthwith.
79. A point of order shall only call attention to an alleged breach of a Council Procedure Rule or statutory provision and the Member shall briefly refer, in the form of a question to the Mayor, to the relevant Council Procedure Rule or statutory provision and the way in which the Member considers that it has been broken.
80. The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall be final unless the meeting on motion put without debate by any Member resolves that the ruling of the Mayor shall be of no effect. If any such motion be moved, the Mayor shall call for a seconder and the motion shall, if seconded, be put to the meeting forthwith.

### **VOTING**

81. 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.

### **Mayor/Chair's Second or Casting Vote**

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

### **Show of Hands**

83. Unless a ballot or recorded vote is demanded, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation



of the meeting.

84. Members will vote by a show of hands but if a Member so requests a named vote before the Mayor begins to take the vote, and the request is supported by four other Members (who will show their support by also rising in their seats) :-
- (a) the Assistant Director Law and Governance will call the name of each Member;
  - (b) the Member will respond, for or against the motion or abstaining; and
  - (c) the Assistant Director Law and Governance will record each Member's response.
85. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require a named vote to be taken on any decision relating to the Budget or Council Tax and will follow the procedure set out at Rule 84 above
86. 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.

## **MINUTES**

### **Signing the Minutes**

87. The Mayor will sign the Minutes of the proceedings of a meeting of the Council at the next suitable meeting. The Mayor will move that the Minutes of the previous meeting be signed as a correct record. The only discussion on the Minutes is as to their accuracy.

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

88. 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.

## **Form of Minutes**

89. Minutes will contain all motions and amendments thereto in the exact form and order the Mayor put them.

## **EXCLUSION OF PUBLIC**

90. Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules and the disorderly conduct and general disturbance paragraphs within these rules.

## **EMPLOYEES OF THE COUNCIL**

91. If any question arises at a meeting of the Council to which the public (including the Press) are admitted as to the appointment, promotion, dismissal, salary, superannuation or conditions of service of, or as to the conduct of, any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not the public (including the Press) shall be excluded under the provision of Section 100A(4) and (5) of the Local Government Act 1972 (as amended).
92. If any such question arises at a meeting of the Council, the Mayor shall forthwith rule that the question stands deferred to be considered after the remainder of the business of the meeting has been transacted.

## **DISORDERLY CONDUCT**

93. When a Member speaks, they must confine their remarks to the question then under discussion and if, after the Mayor has drawn the attention of the Member to a contravention of this Rule, the Member further contravenes, the Mayor may rule the Member out of order and require them to resume their seat and the Member shall take no further part in the discussion of the question.
94. If a Member uses unbecoming language (e.g. racist, sexist, etc.) or is tediously repetitious or repeatedly irrelevant or otherwise commits a breach of order, the Mayor shall call their attention to the matter and may direct them forthwith to resume their seat and to remain silent. Should such Member disregard the direction of the Mayor, the Mayor shall further direct them forthwith to retire from the Council Chamber for the remainder of the proceedings of the meeting.

95. If the Member so ordered to retire fails to retire, any other Member may move, without debate, that they be removed and the motion, if seconded, shall be put forthwith.
96. If the motion is carried, the Mayor shall EITHER again call upon the Member to retire and, if they fail so to do, the Mayor is hereby empowered to direct the Police (if the Police is in attendance) or the Officers or Members of the Council, or any of them, to remove them from the meeting and to prevent them returning, using no more force than is necessary for the purpose, OR adjourn the meeting of the Council for such period as they, in their discretion, shall consider expedient.

### **GENERAL DISTURBANCE**

97. The Mayor may, in the event of general disturbance which is disruptive of proceedings, adjourn the meeting of the Council for an appropriate time. Such action may be taken irrespective of other available powers to the Mayor and without putting the matter to the meeting.
98. The Mayor, in a case of general disturbance in any part of the Council Chamber open to the public, shall order that part to be cleared.

### **SEALING OF DOCUMENTS**

99. Except where it is otherwise provided by statute, the Common Seal of the Council shall be attested by the Assistant Director Law and Governance or an Officer nominated by them, and an entry of every sealing of a document shall be made in a book provided for the purpose and signed by the Mayor at the meeting of the Council at which such sealing is authorised.

### **COMMITTEES ETC. OF THE COUNCIL**

100. The Council shall, at its Annual Meeting, appoint the following and shall appoint Members to serve on the same :-
  - Cabinet
  - Scrutiny Committees (five)
  - Quasi-Judicial Committees
  - Statutory and Subsidiary Bodies

101. Committees and Subsidiary Bodies will have the power to :-
- (a) appoint their own Chairs and Vice-Chairs;
  - (b) set the date and times of their meetings; and
  - (c) exclude, by resolution, the public from the whole or specified part of the proceedings in the circumstances provided by the Local Government (Access to Information) Act 1985.
102. The Assistant Director Law and Governance shall collate the items of business to be considered by the relevant Committee or Subsidiary Body and shall so arrange the agenda that there shall be grouped together :-
- (a) in Part I thereof, those items, other than those referred to in sub-paragraph (c) hereof, appearing to them to be of a controversial nature;
  - (b) in Part II thereof, those items appearing to them to be of a non-controversial nature which, together with the reports and recommendations of the appropriate Officers, shall be circulated to Members in advance of the meeting; and
  - (c) in Part III thereof, those items appearing to them to involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 (as amended).

## **GENERAL**

103. References in these Rules to statutes shall be deemed to include any statutory modification or re-enactment thereof for the time being in force.
104. The ruling of the Mayor, as to the construction or application of any of these Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council unless the meeting on motion put without debate by any Member resolves that the ruling of the Mayor shall be of no effect. If any such motion be moved, the Mayor shall call for a seconder and the motion shall, if seconded, be put to the meeting forthwith.
105. No Council Procedure Rules shall be altered or repealed and no new Council Procedure Rules shall be made unless notice thereof shall have been duly given and appear upon the Council Summons or in

Committee proceedings accompanying such Summons.

106. Any one or more of these Rules (other than Rule 11 above), in any case of urgency, as to which the Mayor's decision shall be final, or upon motion made on written notice duly given may be suspended so far as regards any business at the meeting where its suspension is moved.
107. A copy of these Rules shall be given to every Member of the Council upon their Acceptance of Office.

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## **Access to Information Procedure Rules**

### **Scope**

1. These rules apply to all meetings of the Council, Cabinet, Scrutiny Committees, the Member Standards Hearing Committee and Regulatory Committees (together called 'meetings').

### **Additional Rights to Information**

2. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **Right to Attend Meetings**

3. Members of the public may attend all meetings, subject to the provisions dealing with Behaviour at Meetings and the Exclusion of Access paragraphs contained within these Rules (see below).

### **Rights to Photograph, Film, Record, Blog etc. at Meetings**

4. Anybody attending a meeting, that is held in public, can photograph, film, record and broadcast the meeting (or part of the meeting), including by digital and social media.
5. Filming, photography or recording should not be directed towards or be focussed on the members of the public attending the meeting.
6. Filming, photographing or recording should be conducted using hand-held devices and carried out in a way which is conducive to the good order and conduct of the meeting.
7. The person presiding at the meeting may order that filming, photography or recording must stop if it is being disruptive to the conduct of the meeting or is being directed towards members of the public.
8. Film crews with more complex equipment should contact the Communications Team at least one working day before the meeting commences to allow appropriate arrangements to be made.

## **Behaviour at Meetings**

9. If any person interrupts or disrupts the proceedings of any meeting, the person presiding shall warn him/her. If he/she continues to interrupt or disrupt the meeting, the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the person presiding shall order him/her to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for an appropriate time.
10. In the event of general disturbance which is disruptive of proceedings, the person presiding may order the part of the room open to the public to be cleared and may adjourn the meeting for an appropriate time.

## **Notice of Meeting**

11. The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the public office of the Council (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk).

## **Access to Agenda and Reports Before the Meeting**

12. Unless the Proper Officer (Assistant Director Law and Governance), decides otherwise, all Members of the Council shall be provided with full copies of the agenda and reports to be presented to meetings, including those containing exempt and/or confidential information. The Council will make copies of the agenda and reports open to the public available for inspection at the public office of the Council (Town Hall, Darlington) at least five clear days before the meeting. If an item is added to the agenda later, a supplementary agenda and any covering reports will be open to inspection from the time the item was added to the agenda.
13. Where a meeting is convened at shorter notice, a copy of the agenda and associated reports shall be made available for inspection at the time the meeting is convened.

## **Access to Agenda and Reports at the Meeting**

14. Except during any part of a public meeting during which the public are excluded, the Council shall make available for the use of members of the public present, at the meeting, a reasonable number of copies of the agenda and of the reports for the meeting.



## **Supply of Copies**

15. The Council will supply copies of :-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Assistant Director Law and Governance thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

## **Access to Minutes etc. After the Meeting**

16. The Council will make available copies of the following for at least six years beginning on the date on which the decision to which the record or report relates was made :-

- (a) the Minutes of the meetings or records of decisions taken;
- (b) a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **BACKGROUND PAPERS**

### **List of Background Papers**

17. The Chief Officer responsible for the report will set out in any report which is open to the public, a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion :-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report,

but does not include works or those documents which disclose exempt or confidential information, defined below.

### **Public Inspection of Background Papers**

18. The Council will make available for public inspection at its offices for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

### **SUMMARY OF PUBLIC'S RIGHTS**

19. A written summary of the public's right to attend meetings and to inspect and copy documents (as detailed in this Constitution) is kept at the Town Hall, Darlington.

### **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

#### **Confidential Information - Requirement to Exclude Public**

20. 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.

#### **Exempt Information - Discretion to Exclude Public**

21. 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.
22. Where possible, any exempt information shall be contained in an appendix to enable discussion of the main item to be held in public. Any resolution to exclude the public due to disclosure of exempt information must identify the part of the proceedings to which it applies and the description of the exempt information being included.
23. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of that Act.

## Meaning of Confidential Information

24. 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.

## Meaning of Exempt Information

25. Exempt information means information falling within the following 7 categories (subject to any condition) :-

Category	Condition
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 authority holding that information).	<p>Information falling within this paragraph is not exempt information by virtue of this paragraph if it is required to be registered under :-</p> <p>(a) the Companies Act 1985;</p> <p>(b) the Friendly Societies Act 1974;</p> <p>(c) the Friendly Societies Act 1992;</p> <p>(d) the Industrial and Provident Societies Act 1965 to 1978; and</p> <p>(e) the Building Societies Act 1986; or</p> <p>(f) the Charities Act 1993</p>

<b>Category</b>	<b>Condition</b>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6. Information which reveals that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

26. Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

27. Information which falls within Nos. 1 to 7 above; and is not prevented from being exempt by virtue of the condition No. 3 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.

### **PRIVATE MEETINGS OF CABINET**

28. There are additional requirements in relation to private meetings of Cabinet which are detailed in the Cabinet Procedure Rules contained within this Constitution.

### **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

29. If the Proper Officer (Assistant Director Law and Governance) 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 Rules 21 to 24 above, 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.

### **NATURE OF RIGHTS**

30. These rights of a Member are additional to any other right he/she may have.

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# **Budget and Policy Framework Procedure Rules**

## **THE FRAMEWORK FOR EXECUTIVE DECISIONS**

1. The Council will be responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of Cabinet to implement it.

## **PROCESS FOR DEVELOPING POLICY FRAMEWORK**

2. The process by which the budget and policy framework shall be developed is :-
  - (a) before a plan/strategy/budget needs to be adopted, 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 Cabinet's consultation process shall be included in relation to each of these matters in the Forward Plan and published at the Town Hall, Darlington. Any representations made to 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 a Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to Cabinet and considered in the preparation of initial proposals.
  - (b) Cabinet's initial proposals shall be referred to the relevant Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Proper Officer (Assistant Director Law and Governance) who will forward them to the Chair of the relevant Scrutiny Committee. If there is no such Chair, a copy must be sent to every Member of that Committee. The 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 Cabinet. The Scrutiny Committee shall report to Cabinet on the outcome of its deliberations. The Scrutiny Committee shall have four weeks to respond to the initial proposals of Cabinet unless Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Scrutiny Committee of the time for response when the proposals are referred to it.

- (c) having considered the report of the Scrutiny Committee, 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 Scrutiny Committee.
- (d) before the Council :-
- (i) amends a draft plan or strategy;
  - (ii) approves for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (iii) adopts (with or without modification) the plan or strategy,
- it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (e) where the Council gives instructions in accordance with paragraph (d) above, 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 -
- (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the 'revised draft plan or strategy'), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
  - (ii) 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.
- (f) when the period specified by the Council, referred to in paragraph (e) above, has expired, the Council must, when -
- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (ii) approving for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or



strategy (whether or not in the form of a draft or revised draft) of which any part is required to be submitted; or

(iii) adopting (with or without modification) the plan or strategy

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

(g) subject to paragraph (k) below, where, before 8th February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year -

(i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

(ii) estimates of other amounts to be used for the purpose of such a calculation;

(iii) estimates of such a calculation; or

(iv) 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 authority has any objections to them, it must take the action set out in paragraph (h) below.

(h) before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (g(i)) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

(i) where the Council gives instructions in accordance with paragraph (h) above, 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 -

- (i) submit a revision of the estimates or amounts as amended by the Cabinet ('revised estimates or amount'), 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
  - (ii) 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.
- (j) when the period specified by the Council, referred to in paragraph (i) above, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (g(i)) above, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -
- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) the Cabinet's reasons for those amendments;
  - (iii) any disagreement that the Cabinet has with any of the Council's objections; and
  - (iv) the Cabinet's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

(k) paragraphs (g) to (j) shall not apply in relation to -

- (i) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

- (l) Immediately after any vote is taken at a budget decision meeting of the 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;
- (m) In Paragraph (l) above, 'budget decision' means a meeting of the relevant body at which it :-
- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of Sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(b); or
  - (ii) issues a precept under Chapter 4 of Part 1 of that Act,
- and includes a meeting where making the calculation or issuing the precept as the case may be was included in an item of business on the agenda for that meeting.
- (n) In Paragraph (l) above, references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.
- (o) The Council meeting must take place within seven working days of the receipt of the Leader's written objection (unless the objection relates to an urgent matter when a Special urgent meeting of Council will be called to enable this Council to meet urgent timescale). 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.
- (p) 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 and shall be implemented immediately.
- (q) 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 policy framework which may be undertaken by Cabinet, in accordance with these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

- (r) If it is impracticable to convene a quorate meeting of the Full Council, before a decision which is contrary to the Budget and Policy Framework must be taken, such a decision may be taken by Cabinet, if the Chair or Vice-Chair of the relevant Scrutiny Committee agrees that the decision may reasonably be regarded as urgent in the circumstances.
- (s) If the Chair or Vice-Chair of the relevant Scrutiny Committee is not available, then the Leader (or in his/her absence), the Deputy Leader, must decide if the decision may reasonably be regarded as urgent. If the relevant person does not agree that the decision may reasonably be regarded as urgent in the circumstances then the matter must be referred to Full Council for a decision.
- (t) After making such an urgent decision, the person responsible for it must, as soon as reasonably practicable, provide to the Full Council, a report explaining the decision, the reasons for it and the reasons why the decision was urgent.

# **Cabinet Procedure Rules**

## **HOW DOES THE CABINET OPERATE?**

### **Role of the Executive**

1. The Cabinet takes decisions in relation to its functions and it operates in accordance with these Rules. More information about its functions are as set out in the Responsibilities for Functions Section.
2. Further details about the Cabinet's overall responsibilities and the individual Portfolio responsibilities are as set out in the Responsibility for Functions Section.

### **Who may make Executive Decisions?**

3. The Cabinet exercises the majority of its responsibilities collectively. However, the Leader has delegated some of its functions to individual Cabinet Members or Officers.

### **Conflicts of Interest**

4. Where the Leader, or any other Member of Cabinet, has a conflict of interest, this should be dealt with, as set out in the Council's Code of Conduct for Members and Co-opted Members.
5. Where any Cabinet function has been delegated to an individual Member or an Officer, and a conflict of interest arises, 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 and Co-opted Members.

### **Cabinet Meetings - When and Where?**

6. Cabinet will meet at least ten times per year at times to be agreed by Cabinet. Cabinet shall meet at the Town Hall, Darlington or another location agreed by Cabinet.

### **Public or Private Meetings of the Cabinet**

7. Generally, meetings of Cabinet will be open to the public except in the circumstances described in these Rules and the Access to Information Procedure Rules

8. A decision by Cabinet to hold a meeting in private shall not be taken unless at least 28 clear days prior to the private meeting, Cabinet have :-
  - (a) made available at the public office (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), notice of its intention to hold the meeting in private. This notice shall include a statement of the reasons for the meeting to be held in private; and
  - (b) at least five clear days prior to the private meeting, made available at the public office (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), a further notice of its intention to hold the meeting in private, including the reasons for the meeting to be held in private, details of any representations received by the Cabinet about why the meeting should be open to the public and a statement of its response to any such representations.
9. If the matter has not been included in accordance with the requirements of 8 above, then the decision to hold a meeting in private, may still be taken if the Cabinet obtains the agreement of the Chair or Vice-Chair of the relevant Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.
10. As soon as is reasonably practicable after Cabinet has obtained the agreement under 8 above, to hold a meeting in private, it must make available at the public office (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

## **Quorum**

11. The quorum for a meeting of Cabinet shall be a minimum of three of the total number of Members of Cabinet.

## **How are Decisions to be taken by the Cabinet?**

12. Cabinet decisions which have been delegated to Cabinet as a whole, will be taken at a meeting convened in accordance with these Rules and the Access to Information Procedure Rules.

## **HOW ARE CABINET MEETINGS CONDUCTED?**

### **Who Presides?**

13. If the Leader is present he/she will preside. In his/her absence, the Deputy Leader will preside and in his/her absence, the Cabinet will appoint, from amongst those present, a person to preside at the meeting.

### **Who May Attend?**

14. Subject to these rules and the Access to Information Procedure Rules and the Members Code of Conduct, other Members of the Council or the public may attend Cabinet meetings and ask questions and make representations.

### **What business?**

15. At each meeting of Cabinet, the following business will be conducted :
  - (a) attendance at the Meeting;
  - (b) consideration of the Minutes of the last meeting;
  - (c) declarations of interest;
  - (d) to hear relevant representation (from Members and the General Public) on items on this Cabinet Agenda;
  - (e) to consider any petitions if any presented to a previous meeting of Cabinet;
  - (f) matters referred to Cabinet (whether by Scrutiny Committee or by Council) for reconsideration by Cabinet, in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
  - (g) issues arising from Scrutiny Committees;
  - (h) Key Decision; and
  - (i) other Decisions.

## **Consultation**

16. All reports to Cabinet shall contain details of the nature, extent and outcome of consultation. The level of consultation required will be appropriate to the nature of the matter under consideration.
17. The Leader and the relevant Portfolio Holder may decide to refer an item to Scrutiny where they consider that the views of Scrutiny should be sought before the matter is considered by Cabinet.

## **Who can put items on the Cabinet Agenda?**

18. The Leader will decide upon the schedule for the meetings of 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 Cabinet, a Committee of it, or an Officer in respect of that matter. The Assistant Director Law and Governance will comply with the Leader's requests in this respect.
19. Any Member of Cabinet may require the Proper Officer (the Assistant Director Law and Governance), to make sure that an item is placed on the agenda of the next available meeting of Cabinet for consideration. If he/she receives such a request, the Proper Officer (the Assistant Director Law and Governance) will comply.
20. Any Chief Officer may place an item on the agenda that they feel Cabinet needs to have a view or take a decision on.
21. The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer (the Assistant Director Law and Governance) to call such a meeting in pursuance to their statutory duties. If there is no meeting of 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.
22. The Proper Officer (the Assistant Director Law and Governance) will ensure that an item is placed on the agenda of the next available meeting of Cabinet if a relevant Scrutiny Committee or the Full Council has resolved that an item must be considered by Cabinet. However, there may only be up to three such items on any one agenda.



## **Record of Decisions by Cabinet**

23. As soon as is reasonably practicable after any meeting of Cabinet, whether held in public or private, the Proper Officer (the Assistant Director Law and Governance) or, where the Proper Officer was not present, the person presiding at the meeting, shall ensure a written statement is produced in respect of every Cabinet decision made at that meeting, which must include :-
- (a) a record of the decision, including the date it was made;
  - (b) a record of the reason(s) for the decision;
  - (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
  - (d) a record of any conflict of interest in relation to the matter decided which is declared by any Member present at the meeting which made the decision; and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

## **Record of Cabinet Decisions Made by the Leader or an Individual Cabinet Member**

24. As soon as reasonably practicable after the Leader or an individual Cabinet Member has made any Cabinet decision, he/she shall produce, or if he/she instructs the Proper Officer (the Assistant Director Law and Governance), to do so, the Proper Officer shall produce, a written statement which must include :-
- (a) a record of the decision, including the date of the decision;
  - (b) a record of the reason(s) for the decision;
  - (c) details of any alternative options considered and rejected by the Member at the time when he made the decision;
  - (d) a record of any conflict of interest declared by any Cabinet Member who was consulted by the Member who made the decision; and

- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

### **Record of Key Decisions by Officers**

25. As soon as is reasonably practicable after an Officer has made a key decision, the Officer shall produce a written statement which must include :-

- (a) a record of the decision, including the date of the decision;
- (b) a record of the reason(s) for the decision;
- (c) details of any alternative options considered and rejected by the Officer at the time when he made the decision;
- (d) a record of any conflict of interest declared, in relation to the decision, by any Cabinet Member who was consulted by the Officer who made the decision; and
- (e) in respect of any declared conflict of interest in relation to the decision, a note of any dispensation granted by the Council's Head of Paid Service.

### **Inspection of Documents Following Cabinet Decisions**

26. Subject to the Access to Procedure Rules, after any meeting of Cabinet, whether held in public or private; after an individual Member has made a Cabinet decision; or, after an Officer has made a key decision; the Proper Officer (the Assistant Director Law and Governance), shall ensure that a copy of :-

- (a) any records prepared in accordance with paragraphs 23 to 25 above; and
- (b) any report considered at the meeting or, as the case may be, considered by the individual Member or Officer and relevant to a decision recorded in accordance with paragraphs 23 to 25 above, or, where only part of the report is relevant to such a decision, that part,

shall be available for inspection by members of the public, as soon as is reasonably practicable, at all reasonable hours at the offices of the Council (Town Hall, Darlington) and on its website

[www.darlington.gov.uk](http://www.darlington.gov.uk)

27. Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph 26 above, those documents shall be supplied for the benefit of the local newspaper by the Council, on payment by the newspaper of postage, copying or other necessary charge for transmission.

### **Meetings of Cabinet and their Committees to be Held in Public**

28. Subject to the Access to Procedure Rules where the Leader, or any other person likely to preside at the meeting, reasonably believes that one of the circumstances specified in paragraph 29 below, applies in relation to a meeting, or part of a meeting, of a decision-making body, that meeting or part of the meeting must be held in public.

29. The circumstances are :-

- (a) a decision to be made will be a key decision;
- (b) a matter that is included on the Forward Plan or is the subject of a notice given under paragraphs 36 to 38 below, is likely to be discussed; and
  - (i) the decision on that matter is likely to be made within 28 days; and
  - (ii) an Officer, who is not a political adviser or assistant, will be present at the discussion.

### **Key Decisions**

30. A key decision means a Cabinet decision which is likely to :-

- (a) result in the Borough Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising one or more wards in the Borough.

31. A key decision may only be made in accordance with the requirements of these Procedure Rules.

## **Individual Executive Decisions**

32. Where a Cabinet Member or Officer receives a report, which he intends to take into consideration when he makes a key decision, he shall not make that decision until the report has been made available for public inspection, pursuant to paragraph 33 below, for at least five clear working days.
33. Subject to the Access to Procedure Rules, the Member or Officer making the decision referred to in paragraph 32 above, shall ensure that the Proper Officer (the Assistant Director Law and Governance), makes the report referred to in that paragraph available for inspection by the public as soon as is reasonably practicable, at all reasonable hours, at the offices of the Council (Town Hall, Darlington) after that Officer or Member receives it.
34. Where a report has been submitted to a Cabinet Member or Officer with a view to it being considered by him when he makes a key decision, the person who submitted the report shall, as soon as is reasonably practicable, supply a copy of it to the Chair of the relevant Scrutiny Committee or, where there is no Chair, to every Member of the relevant Scrutiny Committee.
35. The Proper Officer (the Assistant Director Law and Governance), shall, in any report required by paragraph 32 above, to be available for inspection by the public, include a list of background papers for the report or part of the report, and shall ensure that sufficient copies of the background papers are available, or that facilities exist for the production of sufficient copies of those papers, to meet every reasonable request from members of the public for them.

## **Publicity in Connection with Key Decisions**

36. Where a decision maker intends to make a key decision, that decision shall not be taken unless a Forward Plan has been published in accordance with paragraph 37 below, which states :-
  - (a) that a key decision will be made on behalf of the Council;
  - (b) the matter in respect of which a decision is to be made;
  - (c) where the decision-taker is an individual, his/her name and title, and, where the decision-taker is a body, its name and details of membership;

- (d) the date on which, or the period within which, the decision will be taken;
  - (e) a list of the documents submitted to the decision-taker for consideration in relation to the matter;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.
37. At least 28 clear days before a key decision is made, the document referred to in paragraph 36 above, must be made available at the Offices of the Council (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk)
38. Where, in relation to any matter :-
- (a) the public may be excluded under the Access to Information Rules, from the meeting at which the matter is to be discussed; or
  - (b) the documents relating to the decision are confidential and need not be disclosed to the public

the document referred to in paragraph 36 above, shall contain particulars of the matter but shall not contain any confidential or exempt information.

## **General Exception Rule**

39. Subject to paragraph 42 below, where the publication of the intention to make a key decision is impracticable, that decision shall only be made :-
- (a) where the Proper Officer (the Assistant Director Law and Governance), has informed the Chair or Vice-Chair of the relevant Scrutiny Committee, or, if both are not available, each Member of that Scrutiny Committee in writing, by notice, of the matter to which the decision is to be made;
  - (b) the Proper Officer (the Assistant Director Law and Governance), has made copies of that notice available to the public at the Offices of the Council and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk); and
  - (c) after five clear days have elapsed following the day on which the Proper Officer (the Assistant Director Law and Governance), made available the notice referred to in (a) and (b) above.
40. Where paragraph 39 above, applies to any matter, paragraphs 36 to 38 above, need not be complied with in relation to that matter.
41. As soon as is reasonably practicable after the Proper Officer (the Assistant Director Law and Governance) has complied with paragraph 39 above, he shall make available at the public offices of the Council and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk) a notice setting out the reasons why compliance with paragraph 36 is impracticable.

## **Case of Special Urgency**

42. Where the date by which a key decision must be made, makes compliance with paragraphs 36 and 37 above, impracticable, the decision shall only be made where the decision-maker has obtained agreement from the Chair or Vice-Chair of the relevant Scrutiny Committee that the making of the decision is urgent and cannot be reasonably deferred.
43. As soon as is reasonably practicable after the Proper Officer (the Assistant Director Law and Governance) has obtained agreement under paragraph 39 above, that the making of the decision is urgent and cannot reasonably be deferred, the Proper Officer (the Assistant Director Law and Governance) at the public offices of the Council and

on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

### **Additional Rights of Access to Documents of Members**

44. Subject to paragraphs 48 and 49 below, any document which :-

- (a) is in the possession, or under the control, of Cabinet; and
- (b) contains material relating to any business to be transacted at a public meeting,

shall be available for inspections by any member of the Council.

45. Subject to paragraphs 48 and 49 below any document which :-

- (a) is in the possession, or under the control, of Cabinet; and
- (b) contains material relating to :-
  - (i) any business transacted at a private meeting;
  - (ii) any decision made by the Cabinet Sub-Committee, in accordance with Cabinet arrangements;
  - (iii) any decision made by an Individual Member in accordance with Cabinet arrangements; and
  - (iv) any decision made by an Officer in accordance with Cabinet arrangements,

shall be available for inspection by any Member of the Council when the meeting concludes or, where a Cabinet decision is made by an individual Member or a key decision made by an Officer, immediately after the decision has been made.

46. Any document which is required by paragraphs 44 and 45 above, to be available for inspection by any Member shall be made available for inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

47. Paragraphs 44 and 45 above, do not require a document to be available for inspection if it appears to the Proper Officer (the Assistant Director Law and Governance), that it discloses exempt information of a description falling within Part I of Schedule 12(A) to the 1972 Act

(Descriptions of Exempt Information) (England) (as amended) but they do require the document to be available for inspection if the information is information of a description for the time-being falling within:-

- (a) paragraph 3 of the table contained in the Access to Information Procedure Rules, as detailed within this Constitution of Schedule 12(A) to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for the contract); or
- (b) paragraph 6 of the table contained in the Access to Procedure Rules.

48. Where it appears to the Proper Officer (the Assistant Director Law and Governance) that compliance with paragraph 45 and 46 above, in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph shall not apply as regards to that document or part.

49. The rights conferred by paragraphs 45 and 46 above, are in addition to any other rights that a Member of the Council may have.

### **Additional Rights of Access to Documents for Members of Scrutiny Committees**

50. Subject to paragraph 51 below, a Member of a Scrutiny Committee of the Council shall be entitled to a copy of any document which :-

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to :-
  - (i) any business that has been transacted at a private meeting or a public meeting of a decision-making body of the Council;
  - (ii) any decision that has been made by the Cabinet Sub-Committee, in accordance with Cabinet arrangements;
  - (iii) any decision that has been made by an Individual Member of the Cabinet in accordance with Cabinet arrangements ; and
  - (iv) any key decision that has been made by an Officer of the Council in accordance with Cabinet arrangements.



51. No Member of a Scrutiny Committee shall be entitled to a copy:-
- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:-
    - (i) an action or a decision that he is reviewing or scrutinising; or
    - (ii) any review contained in any programme of work of such a Committee or Sub-Committee of such a Committee; or
  - (b) of a document or part of a document containing advice provided by a political adviser or assistant.
52. Where the Cabinet determines that a Member of Scrutiny is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 50 or 51 above, it must provide the Scrutiny Committee with a written statement setting out its reasons for that decision.

### **Reports to Council Where the Key Decision Procedure is Not Followed**

53. Where a Cabinet decision has been made and :-
- (a) was not treated as being a key decision; and
  - (b) a relevant Scrutiny Committee, is of the opinion, that the decision should have been treated as a key decision,
- that Scrutiny Committee may require the Cabinet, which is responsible for the decision, to submit a report to the full Council within such reasonable period as the Committee may specify.
54. A report under paragraph 53 above, shall include details of :-
- (a) the decision and the reasons for the decision;
  - (b) the decision-making body by which, or the individual by whom, the decision was made; and
  - (c) if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion.

## **Cabinet's Report to Council**

55. The Leader shall submit to the Council at quarterly intervals, a report containing details of each Cabinet decision taken during the proceeding three months where the making of the decision was agreed as urgent in accordance with paragraph 42 above,
56. A report submitted for the purposes of 55 above, shall include:-
- (a) particulars of each decision made; and
  - (b) a summary of the matters in respect of which each decision was made.

## **Scrutiny Procedure Rules**

### **WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR THE SCRUTINY COMMITTEES?**

1. The Council has appointed five Scrutiny Committees and appoints to them at Council. For further information on these Scrutiny Committees and their remits, refer to the Responsibility for Functions Section.
2. The five Scrutiny Committees will perform all overview and scrutiny functions on behalf of the Council. They will be politically balanced (unless the Full Council determines otherwise with no Member dissenting).
3. In addition, there is a Monitoring and Co-ordination Group, comprising the Chairs of the five Scrutiny Committees. For further information on the role of this Group, refer to the Responsibility for Functions Section.

### **WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

4. All Councillors, except Members of Cabinet, may be Members of a Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

### **CO-OPTEEES**

5. In addition to the mandatory co-optees on the Children and Young People Scrutiny Committee, other Scrutiny Committees can appoint co-optees either to the main Scrutiny Committee or to any Task and Finish Review Groups, to assist in any work being undertaken. Non statutory co-optees have no voting powers.

### **EDUCATION REPRESENTATIVES**

6. The relevant Scrutiny Committee (the Children and Young People Scrutiny Committee) dealing with educational matters shall include in its membership, the following voting representatives :-
  - (a) one Church of England diocese representative;
  - (b) one Roman Catholic diocese representative; and
  - (c) three Parent Governor representatives.

The relevant Scrutiny Committee (the Children and Young People Scrutiny Committee) referred to in this paragraph, is a Scrutiny Committee of this Local Authority, where the Committees functions relate wholly, or in part, to any education functions which are the responsibility of Cabinet. If the Scrutiny Committee/Sub-Committee, etc. deals with other matters, these representatives shall not vote on those matters, though they may stay in the meeting and speak.

## **MEETINGS OF THE SCRUTINY COMMITTEES**

7. In addition to the ordinary scheduled meetings, special meetings may be called from time to time, as and when, appropriate. However, Members should be aware of the limited resources available and look at alternative ways of working wherever possible. A Scrutiny Committee meeting may be called by the Chair or Vice-Chair of the relevant Scrutiny Committee, by any four Members of the Committee, or by the Proper Officer (the Assistant Director Law and Governance) if he/she considers it necessary or appropriate.

## **QUORUM**

8. The quorum for a Scrutiny Committee shall be one quarter of the Members of the Committee.

## **WHO CHAIRS SCRUTINY COMMITTEE MEETINGS?**

9. When the Council is in majority control, Chairs of Scrutiny Committees will be appointed from the main Political Group and will be drawn from amongst the Members sitting on the Committee and, subject to this requirement, the Committees may appoint such a person as it considers appropriate as Chair. In the absence of the Chair, the Vice-Chair can exercise the powers of the Chair. In the absence of both the Chair and the Vice-Chair, the Committee will appoint, from amongst those present, a person to preside at the meeting.

## **WORK PROGRAMME**

10. Each Scrutiny Committee will prepare and be responsible for maintaining an approved work programme and report thereon to the Monitoring and Co-ordination Group.
11. In developing a work programme, Scrutiny Committees shall take into account the wishes of all Members of that Committee and Members must take into account the programme of change across the Council and the key role of Scrutiny in ensuring that the programme is able to deliver the service improvements and the budget savings necessary. They must also ensure that any work undertaken is focussed and Member-led. This will be monitored by the Monitoring and Co-ordination Group.
12. Terms of reference for each piece of work, included on the work programme, shall be prepared which will highlight the purpose, resource implications, how the work will be undertaken and the anticipated outcome.
13. The work programme will be kept under review and considered at each meeting of the relevant Scrutiny Committee.

## **AGENDA ITEMS**

14. In addition to the on-going work programme, any Member of a Scrutiny Committee, a Sub-Committee of such a Scrutiny Committee or any Member of the Authority, may refer to the appropriate Scrutiny Committee any matter which is relevant to the functions of that Committee.
15. In referring any item, Members must take into account the requirement in paragraph 11 above, and complete a Quad of Aims, which will outline the purpose of the item, resource implications, how the work will be undertaken and the anticipated outcome.
16. Once received, the Quad of Aims will be forwarded to the relevant Director/Assistant Director for a view on its inclusion as an addition to the previously approved work programme. The item will then be included on the next relevant Scrutiny agenda for Members to consider whether it should be added to the work programme.
17. In cases of cross cutting issues, the item will be referred to the Monitoring and Co-ordination Group for clarification of the appropriate

Scrutiny Committee to consider the request.

18. Scrutiny Committees shall also respond to requests from the Council and, if it considers it appropriate, Cabinet, to review particular areas of Council activity. Prior to undertaking any review, a Terms of Reference shall be prepared.

## **REVIEW GROUPS/TASK AND FINISH REVIEWS**

19. Once an item has been approved and Terms of Reference prepared, Scrutiny Committees may wish to appoint Review Groups or individual Members to undertake work on its behalf. The findings shall be reported back to the Scrutiny Committee, who will then decide what action to take and whether to report thereon to Cabinet.
20. All Members are encouraged to participate in one Review each Municipal Year.

## **INVESTIGATIONS**

21. Where the Scrutiny Committee conducts investigations, it 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.
22. If witnesses, advisers or assessors are asked to attend to address Scrutiny on any matter under consideration, a reasonable fee may be paid to cover any expenses incurred.

## **COUNCILLOR CALL FOR ACTION (CCfA)**

23. Any member of the public can approach a Member of the Council to ask that an issue is referred to a meeting of Scrutiny. This is referred to as a Councillor Call for Action (CCfA). The procedure for dealing with this is set out in the procedure at Appendix 1 to these Rules.

## **PETITION SCHEME**

24. Any member of the public who either lives, works or studies in the Borough of Darlington, can, (if the petition contains more than 1,000 signatures), submit a petition to the Council for consideration by Cabinet on an issue that is of concern to them. If the petition organiser feels that the petition has not been dealt with properly, it has the right to request that the Scrutiny Committee review the steps that the Council has taken in response.

The procedure for dealing with petitions is set out in the procedure at Appendix 2 to these rules.

## **BUDGET AND POLICY FRAMEWORK**

25. The role of the Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework, is set out in detail in the Budget Policy and Framework Procedure Rules.
26. As this is an agreed procedure, it will not be necessary to complete Quads of Aims for items which fall within the Budget and Policy Framework Rules.

## **REPORTS FROM SCRUTINY COMMITTEE**

27. Once it has formed recommendations, Scrutiny Committees will prepare a formal report and submit it to the Proper Officer (the Assistant Director Law and Governance) for consideration by Cabinet or Council.
28. If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, a minority report may be prepared and submitted for consideration by the Council or Cabinet.
29. The Council or Cabinet shall consider the report of the Scrutiny Committee within two months of it being submitted to the Proper Officer (the Assistant Director Law and Governance).

## **MAKING SURE THAT SCRUTINY REPORTS ARE CONSIDERED BY CABINET**

30. The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Scrutiny'. The reports of Scrutiny Committees referred to Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a

substantive item on the agenda) within two months of the Scrutiny Committee completing its report/recommendations.

31. Scrutiny Committees will, in any event, have access to the Cabinet's Forward Plan and timescale for decisions and intentions for consultation. Even when an item is not the subject of detailed proposals from a Scrutiny Committee following 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.

## **RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

32. In addition to their rights as Councillors, Members of Scrutiny Committees have the additional right to documents, and to Notice of Meetings, as set out in the Access to Information Procedure Rules.
33. Nothing in this paragraph prevents more detailed liaison between Cabinet and Scrutiny Committee, as appropriate depending on the particular matter under consideration.

## **MEMBERS AND OFFICERS GIVING ACCOUNT**

34. Any Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Cabinet functions. A Quad of Aims shall be completed in undertaking this. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Chief Executive 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.

35. Where any Member or Officer is required to attend Scrutiny Committee under this provision, the Chair of that Committee will inform the Assistant Director Law and Governance. The Assistant Director shall inform the Member or Officer, in writing, giving at least ten working days notice of the meeting 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.

36. Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of 30 days from the date of the original request.

## **ATTENDANCE BY OTHERS**

37. A Scrutiny Committee may invite people other than those people referred to 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 people to attend. Such attendance is at the discretion of the people asked.

## **CALL-IN**

38. Call-in should be kept to a minimum and be used in exceptional circumstances. These are when Members of a Scrutiny Committee have evidence which suggests that Cabinet did not take the decision in accordance with the following principles :-
- proportionality (i.e. the action must be proportionate to the desired outcome);
  - due consultation and the taking of professional advice from Officers;
  - respect for human rights;
  - a presumption in favour of openness;
  - clarity of aims and desired outcomes; and
  - explanation of what options were considered and giving reasons for the decision.
39. When a decision is made by Cabinet, or a key decision is made by an Officer with delegated authority from Cabinet, or under joint arrangements, the decision shall be published within five working days of being made. Scrutiny Committee Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

40. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless a Scrutiny Committee objects to it and calls it in.
41. During that period, the Assistant Director Law and Governance shall call-in a decision for scrutiny by the Committee if so requested by at least three Members of the Scrutiny Committee. Members wishing to call an item in shall complete a Quad of Aims. If the call-in is deemed to be valid, the Assistant Director Law and Governance shall call a meeting of the Committee on such a date as he/she may determine, where possible after consultation with the Chair of the Committee and, in any case, within ten working days of the decision to call-in.
42. A report will be presented to the Scrutiny Committee by the Officer concerned, followed by either a brief statement by the Member requiring the call-in, or where applicable, a summary of the findings of the sub-group which has been delegated to consider call-in of a key decision.
43. If, having considered the decision, the 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, what it expects Cabinet to reconsider and any alternative recommended action.
44. If, following an objection to the decision, the 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 Scrutiny Committee meeting, or the expiry of the further 15 working day period, whichever is the earlier. The Leader or relevant Cabinet Member shall in any case be advised of the decision of the Scrutiny Committee in writing.
45. 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 a decision in respect of a Cabinet decision unless it is contrary to the Budget and 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

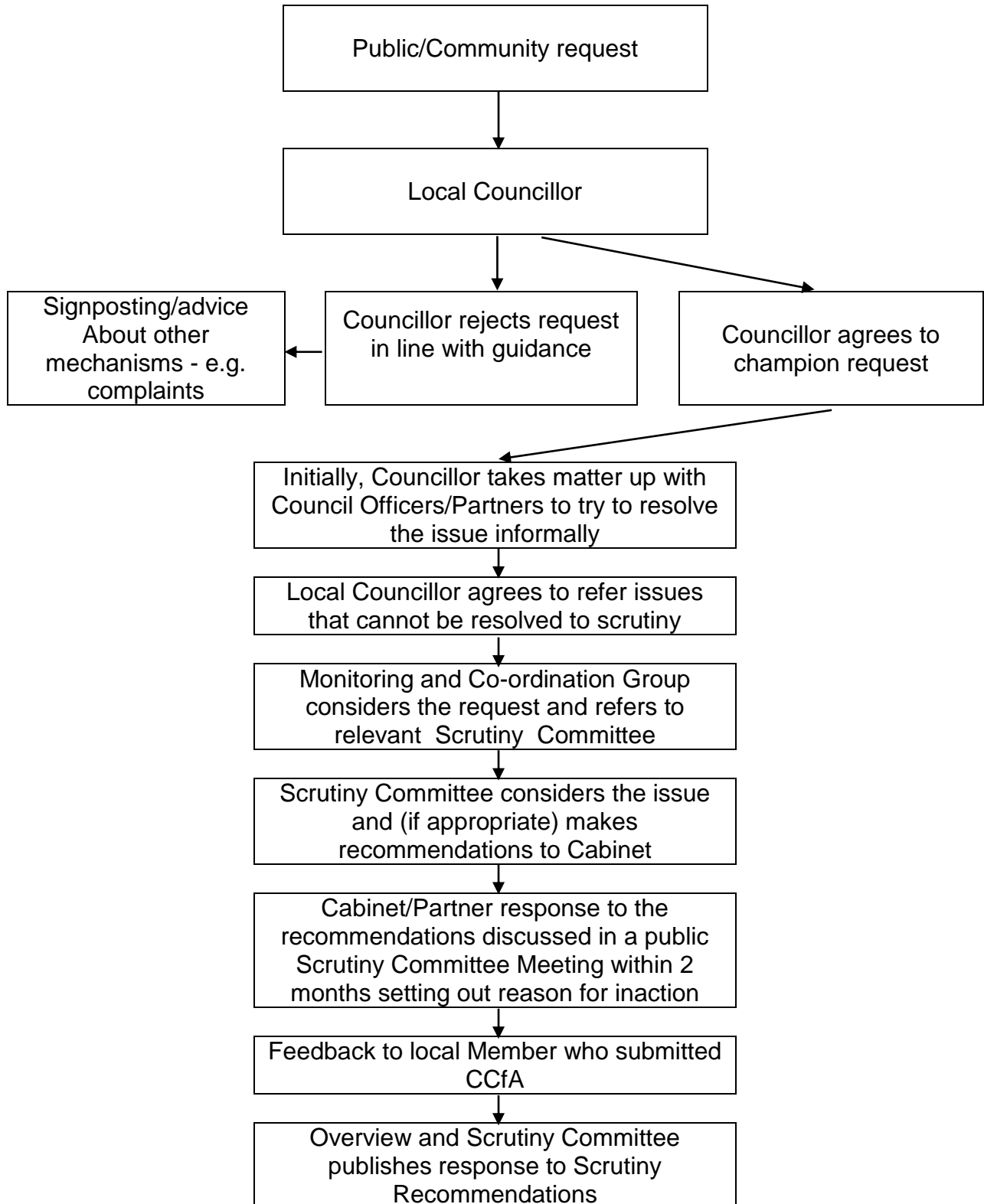
it. Where the decision was taken by Cabinet, as a whole, a meeting will be convened to reconsider within 20 working days of the Council's request.

46. 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.

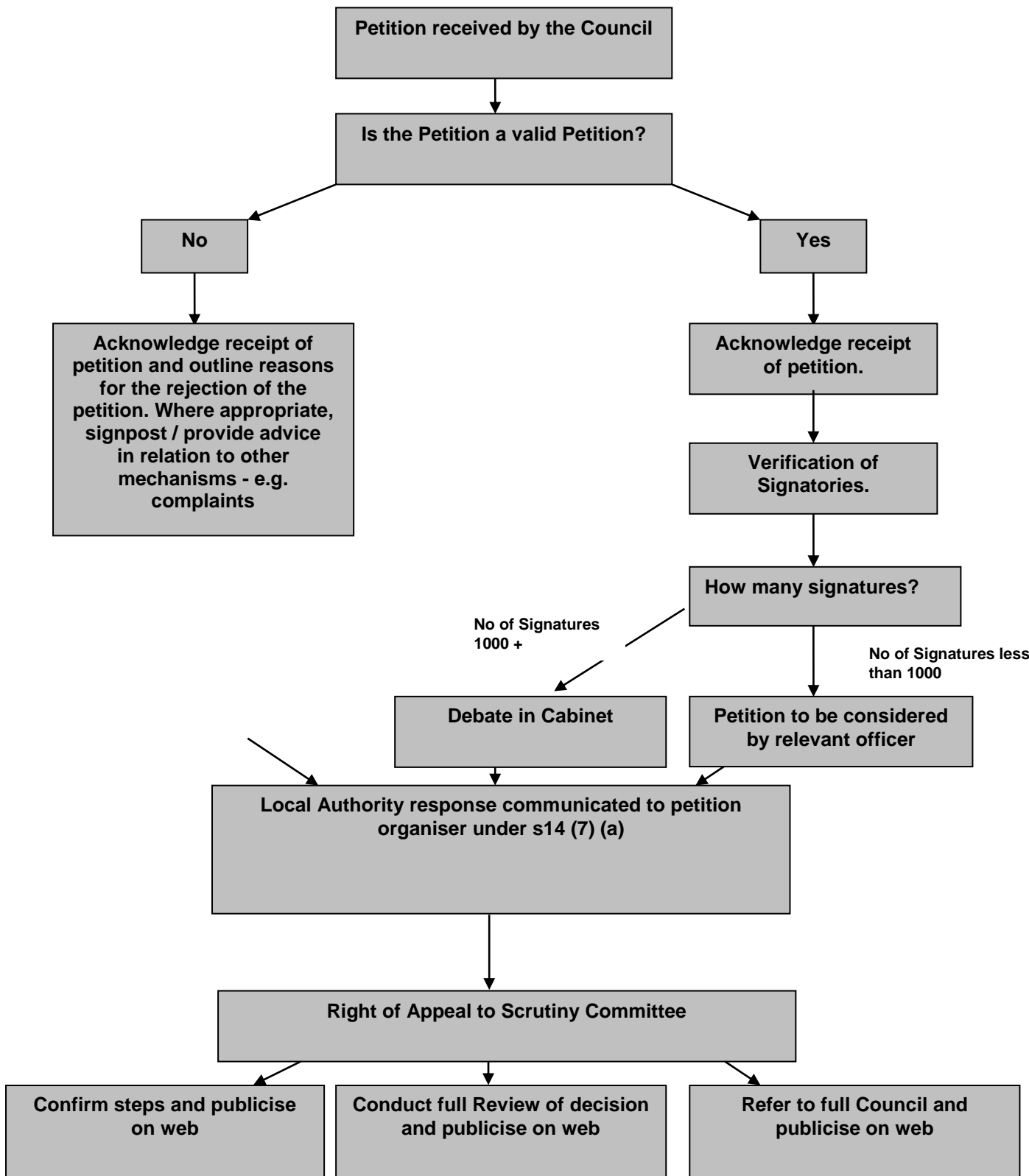
## **CALL-IN AND URGENCY**

47. The call-in procedure, as set out above, shall not apply where the decision being taken by Cabinet or an Officer 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. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
48. 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.

## PROCEDURE FOR DEALING WITH A COUNCILLOR CALL FOR ACTION



**PROCEDURE FOR DEALING WITH A PETITION/e-PETITION**



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# Financial Procedure Rules

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## Introduction

1. It is necessary for any large organisation to establish principles to be observed in the management of its financial affairs. Much of that financial management is necessarily carried out by employees without formal financial qualifications or training.
2. Such principles are even more important for local authorities, which are subject to many statutory requirements, public accountability and external audit.
3. A written code of regulations provides a clear set of rules governing financial matters in the Council and ensures uniformity of financial administration between different departments so that all employees (and especially new employees) work within an established and accepted basis.
4. The public is entitled to expect the Council to maintain the highest standards of probity and protect the Council's purse. An Anti Fraud and Corruption Policy Statement has been adopted which sets out the Council's commitment to not tolerate fraud, corruption or abuse of position for personal gain wherever it may be found in any area of Council activity (**Annex 1**).
5. This statement is underpinned by an Anti Fraud and Corruption Strategy (**Annex 2**) which identifies the key components of the Council having an effective counter-fraud regime; highlights the key people and measures which can help in the prevention of fraud and corruption; details responsibility for detection and investigation; recognises that continued success of the strategy is dependent upon an effective training programme; and outlines deterrence arrangements.
6. These Procedures are not intended to be subject to the finer points of legal interpretation and should be used as a basis for management action rather than policy decision. They are to be read in conjunction with the Responsibility for Functions.

## Financial Organisation

7. It shall be the duty of Cabinet to regulate and control the finances of the Council. The Group Director of Operations shall be responsible for monitoring all the expenditure and revenues of the Council.



8. The Group Director of Operations shall be :-
  - (a) forwarded a copy of all reports which will be submitted to the Council, Cabinet, Committees and Subsidiary Bodies which have financial implications for the Council at least ten clear working days in advance of the deadline for receipt of reports by Democratic Services; and
  - (b) advised of all cases where representatives of the Council intend to consider financial proposals with representatives of Government departments or other bodies and shall be entitled to attend such meetings, and to take part in and advise on any discussions involving finance as he/she considers necessary.
9. The Group Director of Operations shall keep the Cabinet Member with the Resources Portfolio informed of any developments significantly affecting the overall finances and financial position of the Council.
10. All Cabinet Members and Directors shall be responsible for the observance of these regulations throughout all portfolios and departments under their control.

### **Value for Money**

11. Within the policy of the Council, it shall be the responsibility of each Director to ensure that there are proper arrangements in their respective departments for securing economy, efficiency and effectiveness in the use of the Council's resources.

### **Accounts and Accounting Systems**

12. The Group Director of Operations shall prepare the Council's annual accounts and shall require the keeping of such accounting records as he/she considers necessary. It shall be the duty of Directors to prepare and supply, within agreed timescales to the Group Director of Operations, such supporting information as may be necessary for the preparation of those records in accordance with the timetable to be directed by the Group Director of Operations.
13. All systems of accounting and accounting records throughout the Council shall be subject to the approval and control of the Group Director of Operations

14. The Group Director of Operations shall ensure that the Council's accounts and supporting records are kept up-to-date and that the accounts are completed, balanced and reported to the Audit Committee for approval within four months of the end of each financial year.

### **Budgets - Revenue**

15. The Group Director of Operations shall submit a report each year to Cabinet reviewing the Council's finances, financial strategies and financial plans for the ensuing years.
16. Directors of each department, together with the Group Director of Operations shall prepare each year detailed estimates of revenue income and expenditure.
17. Chief Officers Executive shall submit expenditure and income proposals to Cabinet, with due regard to the Council's overall finances, strategies, plans and detailed estimates.
18. Cabinet and the Economy and Resources Scrutiny Committee shall further develop the Chief Officers Executive's proposals in accordance with Budget and Policy Framework Procedure Rules.
19. Cabinet shall recommend to the Council the total net budget requirement for the Borough, which, following Council approval, shall constitute authority to incur such expenditure.
20. It shall be the responsibility of each Director to exercise supervision and control of expenditure and income within the total resources allocated to them by the Council. The Group Director of Operations shall supply each Director with such financial information, advice and guidance as will enable them reasonably to comply with this regulation. Periodic monitoring reports on operating expenditure and income shall be supplied to the Cabinet during the year.
21. Each Director shall be responsible, in consultation with the Group Director of Operations, for submitting proposals to Cabinet for the regular review of rents, fees and charges.

A report will be submitted to Cabinet for any expenditure which cannot be accommodated in the approved resource allocation.

## Budgets – Capital

### Capital Expenditure

22. The Group Director of Operations shall prepare and maintain a Capital Strategy (CS), which sets the strategic framework for capital investment and the development, retention or disposal and deployment of the Council's assets.
23. The Group Director of Services shall prepare and maintain an Asset Management Plan (AMP), which sets the operational framework for the effective and efficient management of the Council's assets and capital investment.
24. The Economy and Resources Scrutiny Committee shall consider the proposed CS and AMP and make recommendations to Cabinet. Cabinet shall have regard to recommendations and comments of the Economy and Resources Scrutiny Committee when deciding the proposed CS and AMP to be submitted to Council for approval. The Strategy and Plan shall be reviewed at least annually.
25. Within the framework of the CS and AMP, all Directors shall prepare and maintain four-year capital expenditure plans for their services, based on their service plans and improvement priorities.
26. Directors' capital expenditure plans shall be reviewed and updated at least annually. The plans shall be considered annually by the Asset Management Group (AMG), which shall formulate proposals for the Council's overall Medium Term Financial Plan for capital (MTFP-C).
27. Chief Officers Executive (COE) shall consider the proposals of AMG and prepare a report to Cabinet, setting out proposals for the Council's MTFP-C. The MTFP-C shall include projected available resources, the allocation of resources to schemes and prudent retention of resources to meet unforeseen short-term demands, variances in projected available resources and medium-term future needs.
28. In developing their proposals, COE and AMG shall, in addition to departmental capital expenditure plans, have due regard to :-

Capital  
Expenditure  
plans

Medium  
Term  
Financial  
Plan -  
Capital

Capital  
funding  
sources

- (a) external funding available to the Council from Government and other grants and supported borrowing;
- (b) hypothecation ('ring-fencing' of external funding for specified purposes), non-hypothecated but ear-marked resources and resources that are available for any permitted use;
- (c) developers contributions towards capital expenditure, under Section 106 agreements and any other similar arrangements; and
- (d) internal resources available from capital receipts, non-supported borrowing and revenue contributions to capital expenditure

29. Where Directors consider that capital expenditure requirements exceed external funding programmes for their services, they shall develop bids for internal resources, informed by their departmental plans.

Internal  
Funding;  
Bids

- 30. Bids shall be prepared in accordance with procedures and in a format agreed by AMG. They shall be assessed by AMG using a scoring model that will have regard to the Capital Strategy, Asset Management Plan, the Sustainable Community Strategy, the Corporate Plan and other internal strategies, including the Council's ICT and HR strategies.
- 31. AMG shall submit to COE a list of assessed bids. COE shall develop proposals for internally funded capital schemes for inclusion in its annual MTFP-C report to Cabinet.
- 32. Cabinet shall consider COE's proposed MTFP-C and make recommendations to Council regarding : -
  - (a) Planned capital resources including :-
    - (i) internal resources from Capital Receipts arising from asset disposals, Unsupported Borrowing ('Prudential Borrowing') and contributions from revenue; and
    - (ii) external resources from Government and other grants, Supported borrowing and contributions from developers;
  - (b) allocations of resources to services including resources in the major programme blocks (Education, Housing, Transport and

other services); and

(c) unallocated resources held in reserve.

33. The Economy and Resources Scrutiny Committee shall have the opportunity to examine Cabinet's recommendations and may make recommendations to Cabinet to make changes to the proposed MTFP-C or may support Cabinet's recommendations.
34. Cabinet shall consider the recommendations and comments of the Economy and Resources Scrutiny Committee and may make changes to its recommendations to Council.
35. Before 11th March each financial year, Council shall consider the recommendations of Cabinet for the MTFP-C and shall approve a MTFP-C, which may be as recommended by Cabinet or may, by simple majority of those present and voting, contain changes to Cabinet's proposals.
36. Inclusion of a scheme in the programme approved by Council does not constitute authority to incur expenditure. Each capital scheme in the approved programme shall be the subject of a written report by the responsible Director, in consultation with other Directors concerned, to Cabinet. The report shall include the need for the proposed expenditure, its place in the Council's strategic plans, the estimated capital cost analysed as appropriate between land, construction, equipment, vehicles and design and project management costs; the estimated annual revenue implications (including running costs and financing costs); and the methods of financing.
37. Reports for releasing capital resources shall also contain details of alternative options that have been considered where applicable. Reports for all proposed schemes with a value of more than £1 million shall also contain whole-life-cost evaluations, setting out the cost of the proposed scheme over its expected life, including any cost implications at the expiry of the life of the proposed scheme. Option appraisal and whole life costing shall be in accordance with standards set by the Asset Management Group (see paragraph 46 below).
38. The Director responsible for each approved scheme shall ensure that proper arrangements are made for the management of the implementation of the scheme, with regard to cost, specification and

Release of resources – approval for individual schemes

Management and control of approved schemes

timeliness.

39. A report shall be submitted to Cabinet for approval of material variances from the approved details of individual schemes if :-
- (a) the actual or projected final costs of a scheme increase by the lesser of 10% or £100,000 and the increase in costs is required to be met from the Council's own capital resources or have an impact on the availability of resources for other schemes; or
  - (b) the approved specification of the scheme changes significantly from that approved. In this context, 'significantly' means a change that will affect the quality or effectiveness of the completed scheme to such an extent as to impact on the objectives of carrying out the scheme; or
  - (c) the time taken to substantially complete the scheme has, or is expected to, increase significantly ('significantly' having a similar meaning to above).
40. Variances from approved details that are below the thresholds defined above shall be reported to Cabinet for approval in the quarterly monitoring reports described in paragraph 44 below. Cabinet's delegated authority to approve additional resources is established by, and subject to limits in, the 'Responsibility for Functions' section of this Constitution.
41. The Group Director of Services and the Group Director of Operations shall submit quarterly monitoring reports to Cabinet, providing information regarding costs and progress of schemes. The Director responsible for each scheme shall provide information to enable the report to be prepared. The reports shall contain summary information regarding progress of the Council's overall capital programme and the resources available, including projections of future resources and commitments.
42. The final outturn of all schemes with a value in excess of £1 million shall be reported to Cabinet. The reports shall compare actual cost, timeliness and quality (including specification and quantity as appropriate to each case, i.e. 'what has been delivered') with the original and any amended approvals.
43. The outturn of schemes with values of less than £1 million shall be included in quarterly monitoring reports.

44. The development of capital investment proposals referred to in paragraph 27 above is likely to require expenditure on feasibility studies and option appraisals. In accordance with statutory accounting rules, such expenditure generally cannot be capitalised. Directors are, therefore, required to meet such costs from their revenue budgets, under the relevant provisions of Financial Procedure Rules regarding revenue budgets.

Feasibility  
and option  
appraisal

45. The Asset Management Group (AMG), Chaired by the Chief Executive and with representation from all departments, shall maintain a continuous review of capital planning, management and reporting, with regard to best practice, experience and opportunities for improving the Council's capital and asset management. The AMG shall oversee implementation of standards and procedures and make recommendations for implementation by other parties (e.g. COE, Cabinet, Full Council) as appropriate.

Asset  
Manage-  
-ment  
Group

46. The Group Director of Operations, in consultation with the Chief Executive, has delegated powers to sanction capital expenditure above the levels approved by Council or Cabinet where items are urgent or would have a financial benefit, up to £50,000.

Urgent  
work –  
delegated  
power.

## Capital Receipts

47. The Asset Management Plan (AMP) shall include plans for the disposal of assets that are surplus to the Council's strategic and operational requirements.
48. Implementation of the asset disposal plan shall be in accordance with the Council's Property Procedure Rules.

## Internal Audit

49. A continuous internal audit under the independent control and direction of the Group Director of Operations shall be arranged to carry out an examination of accounting, financial and other operations of the Council.
50. The Group Director of Operations, or his/her representatives, shall have authority to :-
- (a) enter at all reasonable times on any Council premises or land except where a contract is in progress;

- (b) have access to all records, documents and correspondence relating to any financial and other transactions of the Council;
  - (c) require and receive such explanations as are necessary concerning any matter under examination; and
  - (d) require any employee of the Council to produce cash, stores or any other Council property under his control.
51. In respect of any audit report or similar communication issued by the Audit and Risk Manager, the appropriate Director must reply within six weeks indicating the action proposed or taken.

### **Irregularities**

52. Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or any suspected offence in the exercise of the functions of the Authority by any employee of the Council, the Director concerned shall notify immediately the Group Director of Operations or vice versa.
53. No investigation or interview in connection with an alleged irregularity shall be undertaken prior to the Group Director of Operations being informed.
54. The Group Director of Operations, in consultation with the Director concerned, shall take such steps as he/she considers necessary by way of investigation and report, and where it appears that an offence may have been committed shall consult with the Assistant Director Law and Governance. In all circumstances the Chief Executive shall be kept informed.
55. Annex 2 sets out a detailed Anti-Fraud and Corruption Policy Statement and Annex 3 is the Anti-Fraud and Corruption Strategy.

### **Security**

56. Each Director shall be responsible at all times for maintaining proper security for all buildings, stocks, furniture, equipment, cash, legal documents, etc. under his/her control. He/she shall consult the Group Director of Operations in any case where security is thought to be defective or where special security arrangements may be



needed.

57. Keys to safes and similar receptacles are not to be left in desk drawers or elsewhere in the office, but are to be subject to the personal responsibility of the keyholder at all times; a register of keys and their holders must be kept by each Director; the loss of any such keys must be reported to the Group Director of Operations forthwith.
58. Directors responsible for computer installations or other records of any kind shall be responsible for maintaining proper security and privacy in respect of information held.

### **Building and Civil Engineering Contracts**

59. The Group Director of Services shall maintain a register of all Building and Civil Engineering Contracts for which a formal contract has been prepared between the Council and the Contractor or for Contracts entered into with Services for Place. The Assistant Director Law and Governance shall notify him/her of all contracts entered into. All contracts made on behalf of the Council are subject to the Council Procedure Rules and as such formal contracts are not required for sums below the value defined in the Contracts Procedure Rules.
60. Before a tender for building or civil engineering work is accepted, the Director concerned shall :-
  - (a) be satisfied that all approvals and documents relating thereto are complete and correct in all respects; and
  - (b) give the Group Director of Operations, in suitable cases, an opportunity to examine the financial capacity of the tenderer to undertake the contract in accordance with the Contracts Procedure Rules.
61. Every variation of or addition to a contract shall be notified to the contractor in writing by the responsible Director. All such notifications shall be made available to the Group Director of Operations
62. The prior approval of Cabinet shall be obtained to any variations to a contract involving the Council in an additional payment of 10 per cent or more or £50,000, whichever is the lower, of the accepted tender figure. Exceptions can occur in circumstances where the cost

of a variation cannot be established until work has been completed; or the cost of a number of individual variations would increase the tender figure by 10 per cent or more. In such cases the written approval of the Group Director of Services (following consultation with the client department) must be obtained for the work to continue. In all cases the action taken shall be reported to Cabinet. The above shall apply to any project awarded to Services for Place as a result of a tender or contract extension.

63. Interim payments to contractors must be signed by an authorised Officer of the appropriate Department, or a private consultant where engaged by the Council in that capacity. The certificate must identify the contract sum, the value of work executed to date, deduction for retention and sums paid to date, and the amount now certified.
64. The Group Director of Operations or his/her duly authorised representative shall, after receiving the permission of the Contractor through the relevant Director, have the authority to visit sites where contracts are in progress.
65. The final payment on a contract shall not be authorised until the final account has been completed and agreed by the Contractor and the Council's authorised Officer. The Group Director of Operations reserves the right to examine any final account and supporting documents before agreeing the certified amount.
66. The responsible Director shall report the final account of completed schemes to Cabinet within eighteen months of the work being completed. A report detailing delays in the completion of final accounts within the eighteen months period should be submitted by the Director where appropriate. Where the cost of a scheme exceeds the approved estimate, a report should be made to Cabinet.
67. The Group Director of services shall keep a register of all main works contracts entered into with sub-contractors. All engagements of sub-contractors by Services for Economic Growth shall be subject to the Contracts Procedure Rules.

### **Control of Income**

68. In conjunction with the Group Director of Operations, each Director shall make and maintain adequate arrangements for :-
  - (a) the financial organisation, accounting and book-keeping necessary to ensure the proper recording of all sums due to the

Council; and

- (b) the collection, control, disposal and prompt and proper accounting for all cash in all Council departments including sums due to the Council in respect of sponsorship.
- 69. No deduction may be made from monies due to be paid to the Group Director of Operations or to bank except as the Group Director of Operations may specifically authorise.
- 70. All financial stationery shall be ordered and controlled by the Group Director of Operations. Exceptions will only be allowed on the agreement of the Group Director of Operations must be subject to arrangements approved by him/her.
- 71. Each Director shall provide promptly such particulars of charges for work done, goods supplied or services rendered on behalf of the Council and of all other amounts due, as the Group Director of Operations may require in order to ensure that there is a prompt recording and receiving of all sums due to the Council.
- 72. At all times, such charges for work done, goods supplied or services rendered must be calculated and supported by reference to the Council's Guidance on Credit Management.
- 73. The Group Director of Operations shall write off sums up to £500 on debts which he/she considers that further action would be inappropriate after all appropriate recovery procedures have been attempted. Any other sums shall not be written off in the Council's records without the authority of Cabinet.
- 74. Personal cheques shall not be cashed out of money held on behalf of the Council.
- 75. All grant claims by the Council to any Government department or other organisations shall be made by the Group Director of Operations or by arrangement with him/her.

### **Orders for Work, Goods and Services**

- 76. The Director of each department is responsible for official orders issued from his/her department and he/she shall ensure that resultant expenditure is in accordance with the expressed policy, with respect to Contracts Procedure Rules and the Financial Procedure Rules of the Council, and European Commission

directives and is provided for in the annual budget approved by the Council.

77. Official orders are to be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent and rates, for petty cash purposes or such other exceptions as the Group Director of Operations may approve. Where, in an emergency, it is necessary to place a verbal order, an official order shall be sent not later than the next working day.
78. Orders are to be authorised only by Officers sanctioned by the appropriate Director. A list of such authorised Officers shall be supplied to the Group Director of Operations or his/her representative.

### **Certification and Payment of Accounts**

79. The Director of the Department issuing an order shall be responsible for the examination, verification and certification of the relevant invoices. Before certification the certifying Officer should be satisfied that :-
  - (a) the goods or services have been received, in accordance with the order or contract, examined and approved as to quality and quantity; or the work has been done satisfactorily;
  - (b) the prices are reasonable or in accordance with accepted quotations or tenders and that the calculations, discounts and tax are correct;
  - (c) the invoice is processed against the correct supplier reference and expenditure code;
  - (d) the expenditure has been properly incurred and is within the relevant budget provision;
  - (e) entries have been made in the appropriate records, inventories, stores records or stock books; and
  - (f) that the account has not previously been passed for payment.
80. Invoices are to be authorised by Officers sanctioned by the appropriate Director. A list of such authorised Officers shall be supplied to the Group Director of Operations or his/her

representative.

81. Any amendment to an account shall be made in ink and initialled by the Officer making it, stating briefly the reasons where they are not self evident.
82. Invoices received shall be processed without delay and in accordance with the relevant performance indicator. The Group Director of Operations examine them so far as he/she considers necessary and he/she shall be entitled to receive such information and explanations as he/she may require.
83. The Group Director of Operations shall pay, at suitable frequencies, all accounts which he/she is satisfied are in order.

### **Imprest Accounts**

84. The Group Director of Operations may make imprest advances to Officers for the payment of minor expenses of the Council.

### **Salaries and Wages**

85. The payment of all salaries, and other emoluments to Council employees shall be made by the Group Director of Operations or under arrangements approved and controlled by him/her.
86. The Group Director of Operations shall be provided, as soon as possible, with all relevant information to effect the payment of such emoluments and to maintain records of salaries, and deductions therefrom.
87. All time records or other pay documents shall be in a form prescribed or approved by the Group Director of Operations and shall be certified in manuscript by or on behalf of the relevant Director. All such authorised signatories including any amendments, shall be notified to the Group Director of Operations
88. All Chief Officers have delegated powers to make 'ex-gratia' payments (e.g. for the loss of personal equipment) up to £1,000.

### **Stores and Stores Accounts**

89. Each Director shall be responsible for the care and custody of stores required for his/her department and all stores received and issued shall be properly recorded. No articles or goods shall be removed

from any stores without an official requisition signed by an authorised person.

90. Stores accounts, physical stores and records shall be kept in a form to be approved by the Group Director of Operations and shall be subject to his/her examination and check at such times as he/she thinks fit.
91. Directors shall arrange for stocktaking on a continuous basis with the objective of checking all stores at least once in every year. In addition, Directors shall arrange for independent test checks by persons other than storekeepers. A certificate of stocks held must be presented to the Group Director of Operations by the Director concerned at the end of each financial year.
92. The Group Director of Operations has delegated powers to write off any surplus or deficiencies in respect of any one item of stock on a report of the Chief Officer concerned.
93. Stores shall not be held in excess of reasonable requirements.
94. All Chief Officers have delegated powers to dispose of obsolete, redundant or worn-out equipment.

## **Inventories**

95. Inventories of furniture, equipment, computer hardware, plant and machinery other than stores shall be maintained by the Director of the department concerned and kept up to date. The form and extent of such inventories shall be as approved by the Group Director of Operations.
96. Each Director shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses and deficiencies, noting the inventory accordingly and notifying the Group Director of Operations.
97. The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Director concerned.
98. All relevant assets belonging to the Council should be effectively marked as the property of the Council. Items leased or loaned

should be marked accordingly.

## **Terrier of Land and Property**

99. The Group Director of Services shall maintain a terrier of all land and property owned by the Council (except dwellings provided under the Housing Acts) recording location, extent and the plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
100. The Group Director of Operations shall maintain an asset register for Capital accounting purposes of land, buildings and community assets.
101. The Assistant Director Law and Governance shall have the custody of all title deeds and be responsible for their security.
102. All proposals involving the sale of land and property should be submitted to Cabinet for approval. All land transactions shall be in detail in accordance with the Property Procedure Rules.

## **Banking Arrangements and Cheques**

103. All arrangements with the Council's bankers concerning the Council's banking accounts and issue of cheques shall be made by or under arrangements approved by the Group Director of Operations.
104. The Group Director of Operations shall arrange bank overdraft facilities subject to Cabinet authorisation of any increase in the overdraft limit.
105. All cheques drawn on behalf of the Council shall be signed (in manuscript or facsimile) by the Group Director of Operations or such other Officer as he/she may authorise.
106. Cheques will be dispatched by Transactional Finance within Xentrall to the persons entitled to receive them. Exceptions to this arrangement must be strictly limited in accordance with the arrangements determined by the Group Director of Operations..
107. All new cheques shall be ordered only on the authority of the Group Director of Operations or such other Officer as he/she may authorise.

## **Treasury Management**



108. This Council defines its treasury management activities as :-

*“The management of the organisation’s cashflow, its banking, money market and capital market transactions; the effective management of risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*

109. This Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.

110. This Council acknowledges that effective treasury management will provide towards the achievement of its business and services objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance techniques within the context of effective risk management.

111. Cabinet shall be responsible for monitoring the Treasury Management Policy. The Group Director of Operations is authorised to make all necessary arrangements for borrowing and investments in accordance with this Council’s Treasury Policy Statement.

112. The Council has also adopted the key recommendations of CIPFA’s Treasury Management in the Public Services Code of Practice. A copy of those recommendations is contained in **Annex 3**.

## **Leasing**

113. The Group Director of Operations and the Group Director of Services, as appropriate, shall be responsible for the negotiation and management of operating and finance leasing agreements. Leased items must only be disposed of in accordance with the leasing instructions.

114. All Directors have delegated powers to enter into operating leases.

## **Insurances**

115. The Group Director of Operations, in consultation with Directors, shall effect all necessary insurances and for this purpose Directors shall notify the Group Director of Operations immediately and in writing of all risks which should be covered by insurance and of all

property acquired, rented, leased or disposed of under their control which should be insured and should advise the amount of cover for which new insurances need to be affected or any alterations required in existing insurances.

116. Each Director shall immediately notify the Council's insurers in writing with full particulars of any occurrence involving actual or potential loss to the Council or arising out of which a claim may be made by or against the Council which is covered by insurance and shall furnish as soon as possible an estimate of the cost of making good the damage. No admission of liability, waiver of rights or promise of payment shall be made without the written consent of the Assistant Director Law and Governance.
117. The Group Director of Operations, in consultation where necessary with Directors, is authorised to settle all claims on the Council's Insurance Fund.
118. The Group Director of Operations shall annually, or at such other period as he/she may consider necessary review all insurances in consultation with other Directors as appropriate.
119. Fidelity guarantee insurance shall be effected by the Group Director of Operations in respect of all Council employees.

### **Computer Systems and Data Processing**

120. All documents relating to financial matters and to be used for submitting data for computer processing shall be in a form approved by the Group Director of Operations and managed in accordance with the Council's Records Management Policy.
121. The development of new systems holding personal data or changes to current systems affecting personal data must be :-
  - (a) notified to the Complaints and Information Governance Manager under the Data Protection Act 1986 prior to the implementation of such systems;
  - (b) compliant with the Council's Data Protection Policy; and
  - (c) configured to meet the Council's data quality standards.
122. All Directors must observe the Council's corporate I.C.T. strategy and Information Security Policy and must maintain close liaison with

ICT Services within Xentrall on the purchase, security and control of hardware, software and communications equipment.

123. Physical security, use and control of such equipment and systems is the responsibility of the Director where the equipment is located in accordance with arrangements agreed by the Group Director of Operations.

### **Freedom of Information and Procurement**

124. The Council is subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) ('the Acts'). As part of the Council's duties under the Acts, it may be required to disclose information forming part of the contract to anyone who makes a reasonable request. The Council has absolute discretion in deciding whether to apply exemptions or disclose information.
125. The Contractor shall assist and cooperate with the Council (at the Contractor's expense) to enable the Council to comply with the information disclosure requirements of the Acts and in so doing will comply with any timescale prescribed by the Council. If the provider fails to provide any legitimate comment or objection in relation to the proposed disclosure of information within the timescale suggested, the Council will not be held responsible for any resulting loss, damage, harm or other detriment. The Provider recognises that the Council has a statutory duty to respond to requests within prescribed timescales. The Provider shall not publish or otherwise disclose any information contained in this agreement or in any negotiations leading to the agreement without consulting the Council prior to disclosure.

### **Gifts, Hospitality, Clients and Contractors**

126. The receipt of personal gifts should be discouraged, but if an Officer during the course of, or as a result of, official duties, receives any personal gift, other than one of only token value, the matter must be reported to the Director of the Service, who will decide if the item is to be returned, or forwarded to some charitable cause. In that event the Director should inform the donor what has happened to the gift and explain the reason why gifts should not be sent in the future.
127. Each Director must maintain a departmental record of all gifts received and action taken.

128. The Assistant Director Law and Governance shall maintain a central record of all gifts received and action taken.
129. Hospitality must only be given or accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion, not extravagant and justifiable in the public interest. It must be apparent that no cause could reasonably arise for adverse criticism or suggestion of improper influence about the acceptance of the hospitality. The circumstances and type of hospitality is to be recorded in a central record maintained by the Director of the Service.
130. Officers who are, in accordance with the Conditions of Service, permitted to carry out private or other paid work must not do so during Council time, nor must they use any Council premises, resources or facilities for the execution of such work. No stationery or publicity material is to indicate that the person is a Council employee nor should the address or any telephone number of the Council be stated. Officers must declare to their Director in writing the nature and duration of such work.
131. Officers must not work for any current or prospective supplier or contractor to the Council.
132. Further information about gifts, hospitality etc. is contained in the Code of Conduct for Employees and Confidential Reporting Policy and in procedural guidelines circulated from time to time.

### **Partnership Working**

133. The Council's definition of a partnership is :-  
  
    'An agreement between two or more independent bodies to work collectively to achieve an objective'.
134. The scope is, therefore, very wide but for clarification this definition does not apply to groups where the Council has direct control over budgets and decision making; informal discussion/consultation groups; commercial agreements covered by a contract or SLA, including PFI arrangements, shared service delivery and procurement partnerships; and other arrangements covered by a formal legal agreement such as those for joint service delivery between public bodies.

135. A partnership working toolkit adopted by the Council is available in electronic format through the intranet and provides a means to ensure that :-
  - (a) the Council's resources are effectively employed;
  - (b) the performance of each partnership is monitored; and
  - (c) adequate governance arrangements are in place
136. The toolkit comprises an on-line questionnaire and must be completed by the lead officer for each partnership. Responses populate a central partnership database that determines which partnerships are classed significant. Each lead officer receives an action plan on completion of the questionnaire highlighting any issues that must be addressed.
137. The partnership database is monitored by the Insurance and Risk Management Section to ensure that the data is updated at least annually and that appropriate actions are taken upon identified issues to address.
138. The Darlington Partnership Director will lead on an annual review of significant partnership that will be reported to the Audit Committee.
139. The creation of all new partnerships will require approval by both the responsible Director in consultation with the relevant Cabinet Portfolio Holder and the Chief Executive of the LSP and for those classed significant, approval from Cabinet.

### **Local Management of Schools - Financial Regulations**

140. The scheme for local management of schools requires Financial Regulations to apply to Governing Bodies, Head Teachers and staff of schools with delegated budgets. The Regulations applying to schools are included in the Scheme for Financing Schools and accompanying guidance.

## **Darlington Borough Council Anti-Fraud and Corruption Policy Statement**

### **Introduction**

1. Darlington Borough Council is determined to maintain its reputation as an Authority which will not tolerate fraud, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity.
2. The purpose of this Policy Statement is to set out for members and employees of the Council the main principles for countering fraud and corruption.
3. The Policy statement includes:-
  - the scope;
  - the culture and the stance against fraud and corruption;
  - how to raise concerns and report financial malpractice;
  - the principle of having a Council anti-fraud and corruption strategy;
  - the responsible employee.
4. Elected Members, and employees, should play a key role in counter-fraud initiatives. This includes providing a corporate framework within which counter-fraud arrangements will function, and the promotion of an anti-fraud culture across the whole of the Council. This should provide a sound defence against internal and external abuse of public funds.
5. This Statement also reflects the principles of the Nolan Committee.
6. Part of the External Auditor's statutory duties is to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.
7. The relevant definitions are as follows;
8. Fraud is the 'intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or otherwise for gain'.

9. Corruption is the 'offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person'.

### **Scope**

10. This Policy Statement applies to elected members, co-opted members of committees, and all employees who work for the Council.
11. With regard to others who provide services for the Council, the Nolan Committee reiterated a fundamental principle in its report on the 'Standards of Conduct in Local Government' 1997, which was:-  
  
    'Where a citizen receives a service which is paid for wholly or in part by the taxpayer, then the government or local authority must retain appropriate responsibility for safeguarding the interests of both the user and taxpayer regardless of the status of the service provider'.
12. Therefore, the Council expects that individuals and organisations (e.g. partners, suppliers, contractors, and service providers) that it deals with will act with integrity and without thought or actions involving fraud and corruption. Where relevant, the Council will include appropriate clauses in its contracts about the consequences of fraud, bribery and corruption; evidence of such acts are most likely to lead to a termination of the particular contract and may lead to prosecution.
13. The Anti-Fraud and Corruption Policy Statement and Strategy are commended to the Council's schools governing bodies, with the expectation that they will be adopted.

### **Culture and Stance Against Fraud and Corruption**

14. Responsibility for an anti-fraud culture is the joint duty of all those involved in giving political direction, determining policy and management. The strategy should be directed against fraud and corruption whether it is attempted against the Council from outside or from within its own workforce.
15. The Council expects that Members and employees at all levels will lead by example in ensuring adherence to legal requirements, contract procedure rules, financial procedure rules, codes of conduct, other procedures and practices.
16. As part of this culture, the Council will provide clear routes by which concerns can be raised by both Members and employees, and those outside who are providing, using or paying for public services.

17. Senior Management is expected to deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council, including Members, senior management and governors, should be robust in dealing with financial malpractice.
18. The Council also has in place two Committees whose monitoring roles are relevant
  - The Audit Committee, which has responsibility for oversight of ethical values, including the promotion of and maintenance of high standards of contact; and
  - The Economy and Resources Scrutiny Committee which scrutinises the way in which the Council's Financial and Human Resources are controlled and deployed.

### **Raising Concerns**

19. Although this document specifically refers to fraud and corruption, it equally applies to all financial malpractice. This includes a wide range of irregularities and criminal acts that are financial or finance-related. It includes, for example, the criminal acts of theft of 'property', which includes all assets and cash; false accounting; obtaining by deception; pecuniary advantage by deception; computer abuse and computer crime. Also, it includes bribery and corruption. Employees and Members can be exposed to a number of 'pressures', from contractors, landlords, the public etc. to act in a particular way in a particular case; this may involve 'favouritism' regarding the access to all kinds of services and benefits (e.g. grants, awards, benefits, council housing, or gaining contracts, planning permission, etc.).
20. Members and employees are an important element in the Council's stance on fraud and corruption, and they are positively encouraged and expected to raise any concerns that they may have on these issues where they are associated with the Council's activity.
21. Employees should normally raise concerns through their immediate manager, who will inform the Group Director of Operations and their Director, if different. However it is recognised that they may feel inhibited in certain circumstances. In this case, employees and members should contact either the Chief Executive, the Group Director of Operations or the Assistant Director Law and Governance. The Council's Confidential Reporting ('Whistleblowing') Policy gives further guidance on how to raise concerns and it gives details about the support and safeguards that are available to those that do raise concerns.
22. Concerns will be treated in confidence, properly investigated and dealt with fairly.



23. There is, of course, a need to ensure that any investigation process is not misused, therefore, any internal abuse, such as raising malicious or vexatious allegations, may be dealt with as a disciplinary matter.

### **Anti-Fraud and Corruption Strategy**

24. This Policy Statement forms an important part of the Anti-Fraud and Corruption Strategy by setting out the tone, culture and expectations of the Council, as part of the corporate framework.
25. The Strategy itself details such key features as the corporate framework, prevention, detection and investigation, training and deterrence.

### **The Responsible Officer**

26. Under Section 151 of the Local Government Act 1972 and Regulation 5 of The Accounts and Audit Regulations 2003 (S.I. No.533), the 'Responsible Financial Officer' (i.e. the Group Director of Operations is responsible for ensuring that the Council has control systems and measures in place 'to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute any lost records'. An Anti-Fraud and Corruption Policy Statement and Strategy helps towards discharging part of this responsibility.
27. Also, under Regulation 6 of The Accounts and Audit Regulations 2003, the Council has delegated to the Group Director of Operations, the responsibility for maintaining 'an adequate and effective system of internal audit of the Council's accounting records and its systems of internal control in accordance with proper internal audit practices', together with the statutory right of access to documents, records, information and explanations considered necessary for that purpose.
28. Accordingly, the Group Director of Operations will:-
- take overall responsibility for the maintenance and operation of this Policy;
  - maintain records of financial malpractice, including concerns and allegations received; matters arising from audits; investigations and evidence; and the outcomes;
  - report as necessary to the Council

## **Darlington Borough Council Anti-Fraud and Corruption Strategy**

### **Introduction**

1. The Council's Anti-Fraud and Corruption Strategy is based on a series of comprehensive and inter-related procedures designed to deter, frustrate, or take effective action against any attempted fraudulent or corrupt acts affecting the Council.
2. An effective Strategy will require support across the Council and involves:
  - A Corporate Framework;
  - Prevention (of error, irregularities, fraud and corruption);
  - Detection and Investigation;
  - Training;
  - Deterrence.

### **Corporate Framework**

3. The Corporate Framework requires a whole range of high level component parts, if it is to contribute to the Council having an effective counter-fraud strategy, and some of the key ones include:-
  - An Anti-Fraud and Corruption Policy Statement which emphasises the importance of probity to all concerned;
  - Member support;
  - Codes of conduct for Members and Employees;
  - Protocol for Members on Gifts and Hospitality
  - Proceeds of Crime Act (Anti-Money Laundering) Policy
  - Whistleblowing Policy, and Complaints Procedures;
  - Contracts Procedure Rules and Financial Procedure Rules;
  - IT Security Policy
  - Sound internal control systems, procedures and reliable records;
  - Effective internal audit;
  - Effective recruitment procedures;
  - The Council's Disciplinary Procedure;

- The Regulation of Investigatory Powers (RIPA) Procedure
- Clear responsibilities, accountabilities and standards;
- Induction and training.

### **Prevention**

4. Within the overall corporate framework there are a number of key people and measures which can help in the prevention of fraud and corruption, and these are:
  - Employees of the Council;
  - Members;
  - Internal Control Systems;
  - Combining with Others to Prevent and Fight Fraud.

### **Employees of the Council**

5. A key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard, temporary staff should be treated in the same manner as permanent employees.
6. Employee recruitment should be in accordance with procedures laid down by the Group Director of Operations. Whenever possible, written references should be obtained with specific assurances regarding the known honesty and integrity of potential employees before formal employment offers are made.
7. All employees must abide by the Council's Code of Conduct for Employees, which sets out the Council's requirement on personal conduct. This Code forms part of the Employee Handbook and is referred to in all Contracts of Employment. Employees of the Council are expected to follow any code of conduct related to their personal Professional Institute.
8. The Council has in place employee disciplinary procedures. Any breach of conduct will be dealt with under these procedures and may result in dismissal.
9. Employees are reminded under the Council's Contracts Procedure Rules that they must operate within Section 117 of the Local Government Act 1972, regarding the disclosure of pecuniary interests in contracts relating to the Council or the non-acceptance of any fees or rewards whatsoever other than their proper remuneration. These

requirements are set out in the Council's Code of Conduct for Employees.

10. The Assistant Director Law and Governance is the appointed Monitoring Officer in line with the Local Government and Housing Act 1989. As part of this role, the Assistant Director Law and Governance has overall responsibility for the maintenance and operation of the Authority's Confidential Reporting ('Whistleblowing') Policy.

## **Members**

11. Members are required to operate within:-
  - The Councils Code of Conduct for Members;
  - Local Authorities Members' Interest Regulations 1992 (SI 618); SI 1996/121.5
  - Council Procedure Rules.
12. These matters and other guidance are specifically brought to the attention of Members at the induction course for new Members; they include rules on the declaration and registration with the Assistant Director Law and Governance of potential areas of conflict between Members' Council duties and responsibilities and any other areas of their personal or professional lives.
13. The Authority has in place an Audit Committee, which promotes high standards of member conduct and assists members to observe the code of conduct.

## **Internal Control Systems**

14. The Council has Contracts Procedure Rules, Financial Procedure Rules and various rules and codes of conduct in place that provide a requirement on employees, when dealing with the Council's affairs, to act in accordance with best practice.
15. The Group Director of Operations has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure that proper arrangements are made for the Council's financial affairs. In addition, under the Accounts and Audit Regulations 2003 as the 'responsible financial officer', he is required to determine the accounting control systems which include:-
  - 'measures to enable the prevention and detection of inaccuracies and fraud',

- 'identification of the duties of employees dealing with financial transactions and the division of responsibilities of those employees in relation to significant transactions'.

The latter requirement is a key control in the prevention of impropriety.

16. The Council's aim is to have sound financial systems and procedures which incorporate efficient and effective internal controls. As part of the Strategy, the "separation of duties" should be considered as a fundamental control in systems, especially when involving significant transactions.
17. Under the Council's Financial Procedure Rules, Directors are responsible for ensuring that adequate controls are in place. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the Internal Audit Section.

### **Combining with Others to Prevent and Fight Fraud**

18. The Council is committed to exchanging information with other local and national agencies in order to identify and prevent fraud. Such activity is carried out in full compliance with the Data Protection Act 1998 and with the Code of Practice for National Fraud Initiative Data Matching Exercises and includes providing payroll information to other agencies for data matching purposes. Any employee found to be perpetrating fraud on another local or national agency is liable to face disciplinary action where this has implications for the Council's trust and confidence in the employee. In certain cases disciplinary action could lead to dismissal.
19. The Council operates the Verification Framework (VF) in line with central government initiatives to reduce benefit fraud.
20. The Council also participates in an intelligence gathering, collation and dissemination service on fraud and corruption known as the National Anti-Fraud Network (NAFN). and is a member of the Chartered Institute of Public Finance and Accountancy (CIPFA) Counter Fraud Centre

### **Detection and Investigation**

21. It is the responsibility of Directors and their managers to prevent and detect fraud and corruption.
22. In addition, Internal Audit and External Audit will liaise closely and implement a cyclical programme of audits which will test for fraud and corruption.

23. However, despite the best efforts of managers and auditors, many frauds are discovered by chance or 'tip-off'. It is often the alertness of employees and the public that enables detection to occur. In such cases there is a requirement within the Council's Financial Procedure Rules to inform the Group Director of Operations.
24. The Anti-Fraud and Corruption Policy Statement provides a clear path for raising concerns and facilitating 'tip-offs', and the fraud-response arrangements, outlined in this Strategy, enable such information or allegations to be properly dealt with. The Council's Proceeds of Crime Act (Anti-Money Laundering) and Confidential Reporting 'Whistleblowing' Policies also gives advice on how to raise a concern and the safeguards and support that are available to those who raise concerns.
25. All Allegations of fraudulent activity notified to the Group Director of Operations are considered by Internal Audit. Some are followed up with a full investigation, others are better dealt with as a management issue. However, in order that appropriate action can be taken in each case it is vital to :-
  - report allegations swiftly
  - record all evidence that has been received;
  - ensure that evidence is sound and adequately supported;
  - make secure all of the evidence that has been collected;
  - refer, where appropriate, to the Council's disciplinary procedures;
26. Reporting suspected irregularities is essential to the Anti-Fraud and Corruption Strategy and ensures:-
  - consistent treatment of information regarding fraud and corruption;
  - proper investigation, if necessary, by an independent and experienced audit team;
  - the optimum protection of the Council's interests.
27. Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management, HR, legal etc., and other agencies, such as the Police. This is to ensure that all allegations and evidence are properly investigated and reported upon, and where appropriate, maximum recoveries are made for the Council.
28. The Council's disciplinary procedures will be used to the fullest extent where the outcome of the Audit investigation indicates that fraud has taken place.

29. Where financial impropriety is discovered, the Council's presumption is that the Police will be called in. The Crown Prosecution Service determine whether or not a prosecution will be pursued. Referral to the Police is a matter for the Group Director of Operations and the relevant Director. Various employees will be consulted during investigations and the Chief Executive will be kept informed of referrals to the Police. Referral to the Police will not inhibit action under the disciplinary procedure.
30. The Council's External Auditor also has powers to independently investigate fraud and corruption, and the Council can use his/her services for this purpose too.

### **Training**

31. The Council recognises that the continuing success of its Anti-Fraud and Corruption Strategy and its general credibility will depend largely on the effectiveness of programmed training, communication and responsiveness of employees throughout the organisation.
32. To facilitate this, the Council supports the concept of full induction, training and follow-up training; this applies particularly to employees involved in internal control systems and financial and finance-related systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced, and to casual, temporary and agency staff, who may not be aware of the high standards of probity that are required in the public sector.
33. The Council intranet will be utilised to promote the Anti-Fraud and Corruption Policy and Strategy and associated documents, procedures and information.
34. The review of the Council's internal control systems and the investigation of fraud and corruption centres on Internal Audit, apart from the investigation of fraudulent Housing Benefit claims which rest with the Department of Work and Pensions and fraudulent Council tax and Business rate evasion with the Revenues and Benefits Team.
35. The employees involved in the review of internal control systems and investigative work should be properly and regularly trained; the training plans of Internal Audit and the Revenues and Benefits Team will reflect this requirement.

### **Deterrence**

36. There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside and/or outside of the Council, and these include:-

- Publicising the fact that the Council is firmly set against fraud and corruption and states this at every appropriate opportunity - e.g., clause in contracts, statements on benefits claim forms, website, publications etc.;
- Acting robustly and decisively when fraud and corruption are suspected and proven - e.g. the termination of contracts, dismissal, prosecution etc.;
- Taking action to effect the maximum recoveries for the Council - e.g. through agreement, Court action, penalties etc.;
- Having sound internal control systems, that still allow for innovation, but at the same time minimising the opportunity for fraud and corruption.
- The operation and advertising of a Benefit Fraud Hotline.

### **Conclusion**

37. The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.
38. To this end, the Council maintains a continuous overview of such arrangements, in particular, through the roles of the Monitoring Officer and the Group Director of Operations, the Contract and Financial Procedure Rules, Codes of Conduct and various codes of financial practice, accounting instructions and audit arrangements.
39. Both the Policy Statement and Strategy will be subject to review annually by the Group Director of Operations to ensure that they remain current.



## **TREASURY MANAGEMENT IN THE PUBLIC SERVICES**

### **CLAUSES TO BE ADOPTED**

- 1. This Council will create and maintain, as the cornerstones for effective treasury management:**
  - (a) A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities; and
  - (b) Suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
2. The Council will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in its TMPs.
3. The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Group Director of Operations, who will act in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.
4. The organisation nominates the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

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## **Definitions Appendix**

All costs stated in these Contract Procedure Rules are exclusive of VAT.

Terms appearing in the definitions appendix are italicised and capitalised.

### **Further advice can be sought from:**

Corporate Procurement Unit  
Legal Services

Officers responsible for purchasing must comply with these Contract Procedure Rules, along with the Financial Procedure Rules, the Code of Conduct for Employees, Property Procedure Rules and the Council's Scheme of Delegation, which are all set out in the *Constitution*, and with all UK and European Union binding legal requirements.

To the extent of any inconsistency or ambiguity between any of the above then it is acknowledged that UK and European Union binding legal requirements shall take precedence.

## A Brief Guide to Contract Procedure Rules

These Contract Procedure Rules (issued in accordance with Section 135 of the Local Government Act 1972) are intended to promote good purchasing practice and public accountability, deter corruption, and assure *Value for Money* is obtained in the use of public funds. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

1. *Officers* responsible for purchasing or disposal **MUST** comply with these Contract Procedure Rules. Failure to do so may result in disciplinary action in line with the Council's Disciplinary Procedure. For the purposes of this procedure the Contract Procedure Rules are a management instruction.
2. These Contract Procedure Rules lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract (e.g. if Rule 65 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rules 21 to 30 even if one might apply or be granted).
3. For the purposes of these Rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.
  - Follow these Rules if you purchase goods or services or order building works or any other works from a third party.
  - Take all necessary procurement, legal, financial and professional advice.
  - Declare any personal financial interest in a contract. Corruption is a criminal offence.
  - Ensure that there is a review of the requirement before any purchasing activity is commenced.
  - If the Public Services (Social Value) Act 2012, applies, consider how the economic, social or environmental well-being of the area might be improved by the design of the procurement process.
  - Inform *the Corporate Procurement Unit* of any expected or new procurement exercise to allow the *Procurement Plan* to be updated for the *Efficiency and Resources Scrutiny* and *Cabinet* (if required).
  - Check whether there is an existing *contract arrangement* or *Framework Agreement* before undertaking any procurement activity.
  - If the spend is £10k or over obtain prior approval from the Procurement Board for your proposed procurement activity
  - Ensure that appropriate timescales are allowed for the submission of bids. The timescale will depend on the complexity of the requirement and the Public Contract Regulations 2015.
  - Contracts with a value of £100k or over that are advertised will be advertised on the Council's website, on the North East Procurement Organisation's website and nationally on Contracts Finder.
  - Keep bids confidential.

- Complete a written contract and/or Council order before the supply or works begin.
  - On completion of a tender process a report must be compiled detailing the process followed, the evaluation process and the outcome of the tender.
  - Ensure the contract details are updated on the Contracts Register maintained by the Corporate Procurement Unit.
  - Ensure the contract is appropriately managed and that the contract delivers as intended (see Section 5).
  - Keep records of dealings with suppliers.
  - Assess each contract afterwards to see how well it met the purchasing need and *Value for Money* requirements.
4. In accordance with the *Constitution*, the *Assistant Director Law and Governance* has the power to make amendments from time to time to these Contract Procedure Rules to reflect decisions made by Council.

## Section 1 - Scope

### Basic Principles

5. All purchasing and disposal procedures must:
- Achieve *Best Value* for public money spent.
  - Be consistent with the highest standards of integrity.
  - Ensure fairness in allocating public contracts.
  - Comply with all legal requirements.
  - Ensure that *Non-commercial Considerations* do not influence any *Contracting Decision*.
  - Support the Council's corporate and departmental aims and policies.

### Responsibilities

#### Officers

6. *Officers* responsible for purchasing or disposal must comply with these Contract Procedure Rules, Financial Procedure Rules, the Code of Conduct for Employees, Property Procedure Rules and the Council's Scheme of Delegation, which are all set out in the *Constitution*, and with all UK and European Union binding legal requirements. *Officers* must ensure that any *Agents*, *Consultants* and contractual partners acting on their behalf also comply.
7. *Officers* must ensure that any procurement that is anticipated to be £100,000 or over is entered onto the *Procurement Plan*. *Officers* must provide all relevant information to allow the Corporate Procurement Unit to update the *Procurement Plan*. The plan will be presented to Cabinet to enable them to designate a procurement as a *Strategic Procurement* or Non-Strategic Procurement. The only exemption to this rule is Contracts for performances at the Hippodrome (as per the Scheme of

Delegation).

8. *Officers* must:

- Have regard to relevant guidance from the *Corporate Procurement Unit* and Legal Services.
- Before seeking to let another contract, check with the *Corporate Procurement Unit* whether a suitable *Corporate Contract* or *Framework Agreement* exists. Where a suitable *Corporate Contract* or *Framework Agreement* exists, this must be used unless there is an auditable reason not to do so.
- If no pre-existing contract is available or there is an auditable reason not to use it then the *Officer* or *the Corporate Procurement Unit* will conduct a procurement exercise ensuring they keep the records required by Rules 39 - 41.
- Provide all relevant information to allow the *Corporate Procurement Unit* to keep the Contracts Register up to date.
- Take all necessary procurement, legal and financial advice.
- For any tender that is £100,000 or over all tender documents must be approved by the *Corporate Procurement Team* and Legal Services prior to issue to ensure they comply with all requirements.
- Ensure that any purchase that represents a *Strategic Procurement* has a Procurement Strategy agreed by Cabinet prior to tender for such a procurement.

9. When any employee either of the authority or of a service provider may be affected by any transfer arrangement, *Officers* must ensure that the Transfer of Undertaking (Protection of Employment) Regulations 2006 (*TUPE*) are considered and obtain advice from Human Resources and Legal Services before proceeding with invitations for *Tenders* or *Quotations*. Where it is considered that *TUPE* will apply, the implications should be made clear in the tender document.

10. All contracts will be let using the Council's *Standard Terms and Conditions*. Formal advice from Legal Services must be sought for contracts for which it is not proposed to use the Council's *Standard Terms and Conditions*.

## Directors

### 11. *Directors:*

- Must ensure that their employees comply with Rules 6 to 10.
- Have the powers to make direct awards, subject to compliance with the exemptions requirements (see Rules 21 to 30).
- Must ensure contracts are signed in accordance with Rules 134 to 139 and arrange their safekeeping on Council premises.
- Must keep a record of exemptions made under Rule 25 and 26.

## Council

12. Council's role is to agree these Contract Procedure Rules and any subsequent revisions of these Rules.

## Cabinet

13. A *Procurement Plan* detailing all procurement decisions anticipated to be £100,000 or over to be made in the following year will be submitted to *Cabinet*. A risk assessment will be carried out by the Corporate Procurement Unit to identify potentially strategic procurements (high value, publically important and complex decisions). These will be deemed to be *Strategic Procurements*. *Cabinet* will approve the *Procurement Plan*. *Cabinet* will receive update reports on the progress of *Strategic Procurements*. *Cabinet* will approve any changes to the *Procurement Plan*.

## Economy and Resources Scrutiny Committee

14. The Economy and Resources Scrutiny Committee will have a monitoring role for contracts and tendering. The *Procurement Plan* will be available to the *Economy and Resources Scrutiny Committee*. Monitoring reports on contract performance will be presented by *Officers* if requested by the *Economy and Resources Scrutiny Committee*.

## Procurement Board

15. The Function of Procurement Board is to act as the main officer decision making forum for procurement decisions and to provide coherent oversight of procurement activity within the Council
16. The core membership of the Procurement Board will be the Group Director of Operations (who will ordinarily chair), the Assistant Director, Resources, the Assistant Director Law and Governance and/or the Principal Lawyer, Commercial. Other Directors and AD's may attend, depending on whether there are matters coming before the Procurement Board relevant to their service areas or matters of wider interest to be discussed
17. The role of the Procurement Board will be to:



- (a) Challenge the approach of commissioning officers across the Council for the purpose of improving value and efficiency.
- (b) Ensure that officers have considered their responsibilities in relation to SMEs, the not for profit sector and have addressed the duty in the Public Services (Social Value) Act 2012, before presenting to the Board
- (c) Provide direction on the best approach to commissioning, procurement and contract management.
- (d) Consider exception reports on contracts where performance is poor or where serious issues have arisen.
- (e) Approve procurement activity on proposed spend of £10k and above, including on frameworks, quotes and tenders.
- (f) Approve the award decisions of strategic procurements.
- (g) Determine requests for contract extensions.
- (h) Determine requests for waivers of these Rules.
- (i) Receive exemption reports submitted by Directors who have exercised powers under the emergency and urgency provisions (see exemptions and waivers below Rules 25 and 26)

18. Decisions of the Procurement Board will be subject to the Council's wider decision making rules in relation to Key Decisions. The decisions made by Procurement Board will be reported to Cabinet on a periodic basis.

### **Relevant Contracts**

19. All *Relevant Contracts* must comply with these contract procedure rules. Where a sub-contractor or supplier is to be nominated to a main contractor then these rules apply as if the tender were for a contract with the Council. A *Relevant Contract* is any arrangement made by, or on behalf of, the Council for the carrying out of Works or for the supply of Goods, Materials or Services. These include, but are not limited to, arrangements for:

- the supply or disposal of goods;
- the hire, rental or lease of goods or equipment;
- the delivery of services, including those related to:-
  - the recruitment of employees;
  - land and property transactions;
  - financial and consultancy services.

20. *Relevant Contracts* do not include:

- Contracts of employment which make an individual a direct employee of the authority (though agency staff contracts are *Relevant Contracts*), or
- Agreements regarding the acquisition, disposal, or transfer of land where the transaction does not involve or contain development or other obligations on any third party

(see *Property Procedure Rules*)

### **Exemptions and Waivers**

21. The Procurement Board has the power to waive any requirements within these Contract Procedure Rules for specific projects. This may include extensions to the existing contract term and the making of direct awards. Where a proposed contract is subject to the *EU Procedures* no exemption can be used.
22. Where the value of the proposed contract is £10,000 or above but below £100,000 and it is proposed not to seek three quotes or to directly award, an application must be made to the Procurement Board to waive the contract procedure rules.
23. Where the value of a proposed contract is estimated to be £100,000 or above but expected to fall below the *EU Threshold*, in exceptional circumstances, an application may be made to Procurement Board requesting a waiver of any requirements within these Contract Procedure Rules, stating the reasons for the request. When considering the option to waive Contract Procedure Rules, *Officers* must liaise with the *Corporate Procurement Unit* and Legal Services.
24. Where the value of a proposed contract is estimated to be £100,000 or above but expected to fall below the *EU Threshold* and a tender exercise has been carried out in accordance with these rules but the procedure has failed to identify any suitable bid, the Procurement Board may approve the commencement of a negotiated procedure. However this may only be carried out by the *Corporate Procurement Unit*.
25. Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, a *Director* may approve the exemption in accordance with the *Scheme of Delegation* but must prepare a report for the next Procurement Board to support the action taken, setting out the reason for such urgency, how it complies with relevant legislation and represents *Value for Money*. An exemption under this rule 25 allows a contract to be placed by direct negotiation rather than in accordance with section 3 of these Contract Procedure Rules.
26. Where there is a need to provide urgent special educational needs, urgent social care contracts or urgent operational needs and, in the opinion of the relevant *Director*, it is considered to be in the Council's interests or necessary to meet its

obligations and is not covered by existing contract provision, a *Director* can approve an exemption in accordance with but they must prepare a report for the next Procurement Board to support the action setting out the reason for such urgency, how it complies with relevant legislation and represents *Value for Money*.

27. Any Contracts for performances at the Hippodrome may be negotiated and signed for by the Assistant Director – Community Services (as per the Scheme of Delegation).
28. The Contract Procedure Rules will only be waived as an exception. The Procurement Board when considering requests for waivers shall take into account the following:
  - (a) The contact value and the length of the proposed contract.
  - (b) What steps have been taken to satisfy that the best value duty has been complied with (for instance quotations, market testing).
  - (c) The extent to which there are good reasons why it is not possible to undergo a competitive process (for instance, pressing need or urgency, where further work is required before going to market, where only a short contract extension is needed, or the lack of an available market).
  - (d) Whether the new contract is intended to be a stop gap prior to undergoing a competitive process.
  - (e) The availability of compliant alternatives to direct awards, such as frameworks.
  - (f) How the purchase represents value for money.
  - (g) Any other reason that is being given by the commissioning area.
29. Any decisions made to waive Contract Procedure Rules must be reported back to Cabinet.
30. Decisions to waive Contract Procedure Rules must be recorded and will be subject to the Council's wider decision making rules in relation to key decisions.

### **Collaborative and E-Procurement Arrangements**

31. All purchases made via a local authority purchasing and distribution consortium, from a Public Sector Framework, or in collaboration with other Local Authorities, are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the *EU Threshold* must be let under the *EU Procedure*, unless the consortium has satisfied this requirement already by letting their contract in accordance with the *EU Procedures* on behalf of the authority and other consortium members. This will include the requirement in relation to the signatory of the contract. The adoption of a Public Sector Framework shall be subject to the usual requirements for the Procurement Board and Cabinet approval.
32. A procurement exercise can be carried out using an existing Public Sector *Framework Agreement* such as by Crown Commercial Services, provided that the proposed contract is within the scope of the existing framework agreement. The terms and conditions of contract applicable to any framework arrangement, including

the requirement to undertake competition between providers, must be fully complied with. Advice must be sought from the Corporate Procurement Unit.

33. In order to secure *Value for Money*, the authority may enter into collaborative procurement arrangements. The *Officer* must consult the Corporate Procurement Unit where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
34. Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with these contract procedure rules and no exemption is required. However, advice must be sought from the Corporate Procurement Unit. The adoption of such contracts shall remain subject to the Procurement Board and Cabinet approvals.
35. Where the Council has been successful in securing external grant funding to deliver a project any rules pertaining to that grant funding will take precedence over these Contract Procedure Rules.
36. The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procedure rules, particularly those relating to competition and *Value for Money*.
37. In advance of either advertising a tender opportunity or carrying out a mini-tender from a *Framework* a decision can be made to carry out an *e-Auction*. Notification of the use of an *e-Auction* must be included in the Tender advert and documentation.

## **Section 2 – Common Requirements**

### **Steps prior to Purchase**

38. The *Officer* must consider the purchase, according to its complexity and value, and taking into account any relevant guidance provided by Corporate Procurement Unit by:
  - Taking into account the requirements from any relevant service review.
  - Appraising the need for the expenditure and its priority.
  - Inform the Corporate Procurement Unit of intention to tender.
  - Defining the objectives of the purchase.
  - Assessing the risks associated with the purchase and how to manage them, is this *Strategic Procurement*?
  - Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.

- If the Public Services (Social Value) Act 2012, applies, consider how the economic, social or environmental well-being of the area might be improved by the design of the procurement.
- Consider what steps could be used to ensure maximum participation, including making it attractive to SME's (such as pre engagement, the specification design and the possibility of splitting the contract into lots.)
- Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring.
- Drafting the terms and conditions that are to apply to the proposed contract and agreeing final version with Legal Services.
- Setting out these matters in writing.
- Ensuring appropriate consultation with relevant Cabinet Members has taken place dependant on nature and level of risk associated with the contract to be tendered.
- Adopting Project Management Methodology where appropriate, ensuring the interests of all stakeholders are represented.
- Identifying suitable people who will be responsible for evaluating tenders.

You must also ensure that:

- There is *Cabinet* or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the *Constitution*.
- For spend of £10,000 or above you must have prior approval from the Procurement Board for your proposed procurement activity.
- The contract is on the *Procurement Plan* and if the purchase is a *Strategic Procurement* that all appropriate steps have been taken to comply with the requirement of the Forward Plan and the period for call-in.

## Records

39. Where the *Total Value* is £10,000 or above but less than £100,000, the *Officer* must record:
- Invitations to quote and *Quotations*.
  - The method for obtaining bids (see Rules 65 to 71).
  - Any *Contracting Decision* and the reasons for it.
  - Any exemption under Rules 21 to 30 together with the reasons for it.
  - The *Award Criteria* in descending order of importance.
  - Documents sent to and received from *Candidates*.
40. Where the *Total Value* is £100,000 or higher the *Officer* must record:
- The method for obtaining bids (see Rules 65 to 71).
  - Any *Contracting Decision* and the reasons for it.
  - Any exemption under Rules 21 to 30 together with the reasons for it.
  - the *Award Criteria* and any sub-criteria including any scoring mechanisms to be applied during the evaluation process.

- All documents sent to and received from *Candidates*.
  - Pre-tender market research.
  - Variation of any contract documents.
  - Any correspondence between any *Candidate* and the Council.
  - Clarification and post-tender negotiation (to include minutes of meetings) See rules 114 – 118.
  - The contract documents.
  - Post-contract evaluation and monitoring.
  - Communications with *Candidates* and with the successful contractor throughout the period of the contract.
41. Records required by this rule must be kept for six years after the term of the contract has expired. Contracts under seal must be kept for 12 years after the term of the contract has expired. Records relating to Post Tender Negotiation can be destroyed 12 months after the term of the Contract has expired. However, written documents which relate to unsuccessful *Candidates* may be electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

## **Advertising, Approved Lists Dynamic Purchasing Systems and Framework Agreements**

### **Identifying and Assessing Potential Candidates**

42. *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Candidates* located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:
- The Council's website.
  - Contracts finder.
  - Portal websites specifically created for contract advertisements.
  - The NEPO website.
  - National official journals.
  - The Official Journal of the European Union (OJEU)/Tenders Electronic Daily (TED) (even if there is no requirement within the *EU Procedure*).
43. Every contract opportunity that is advertised and where the total value is £25,000 or above must be advertised using contracts finder. This is regardless of whatever advertising method is used. The only exceptions to this are where quotes are sought from closed groups, or frameworks, approved lists or dynamic purchasing systems are used or direct awards are made. In those circumstances an advert need not be placed on contracts finder.
44. *Officers* are responsible for ensuring that all *Candidates* for a *Relevant Contract* are suitably assessed. The assessment process shall establish that the potential

*Candidates* have sound:

- Economic and financial standing.
  - Technical ability and capacity to fulfil the requirements of the Authority.
45. This shall be achieved in respect of proposed contracts that are expected to exceed £100,000 by selecting firms from:
- *Using firms from an Approved Lists* of providers, maintained by the authority or on its behalf, and compiled following responses to a public advertisement.
  - *Using a dynamic purchasing system.*
  - Shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.
46. For below threshold procurements pre-qualification questionnaires can no longer be used.
47. Public advertisements shall reflect the potential degree of interest from *Candidates* located within other member states of the EU.

### **Approved Lists**

48. *Approved Lists* can be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. *Approved Lists* cannot be used where the *EU Procedure* applies.

*Directors* may draw up:

- *Approved Lists* of persons ready to perform contracts to supply goods or services of particular types including without limitation on the basis of agreed contract terms.
  - Criteria for *Shortlisting* from the lists.
49. No person may be entered on an *Approved List* until there has been an adequate investigation into both their financial and their technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.
50. *Approved Lists* must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers.
51. The list and *Shortlisting* criteria must be reviewed at least annually and re-advertised at least every three years. On re-advertisement, a copy of the advertisement must be sent to each company on the list, inviting them to reapply. Review means:
- The reassessment of the financial and technical ability and performance of those persons on the list, unless such matters will be investigated each time

bids are invited from that list.

- The deletion of those persons no longer qualified, with a written record kept justifying the deletion.
52. All *Approved Lists* shall be maintained in an open, fair and transparent manner and be open to public inspection.
  53. A register of pre-qualified contractors and *Consultants* maintained by or on behalf of central government e.g. Construction Line will be deemed to be an *Approved List* for the purpose of these rules and shall not be subject to the requirements of Rules 49 to 52 inclusive.
  54. Officers must seek advice from the *Corporate Procurement Unit* before considering setting up an *Approved List*. The use of *Approved list* will be subject to reporting to the CPU.

### **Dynamic Purchasing Systems**

55. Dynamic purchasing systems are electronic systems for the purchase of commonly used goods services or works.
56. It must be advertised and achieve the widest publicity among relevant suppliers. It will remain open throughout the duration of its operation for the admission of any supplier who satisfies the qualification criteria.
57. It is unsuitable for areas of spend where quick decisions are required. Under a Dynamic Purchasing System all admitted participants are invited to tender for each specific procurement and the minimum time limit for receipt of tenders is 10 days.
58. The system must operate entirely electronically.
59. Officers must seek advice from the Corporate Procurement Unit before considering setting up a Dynamic Purchasing System. The use of a dynamic purchasing system will be subject to reporting to the Corporate Procurement Unit.



## Framework Agreements

60. The term of a *Framework Agreement* must not exceed four years and may be entered into with one or more providers. The number of providers to be included on the *Framework Agreement* will be agreed in advance with the Corporate Procurement Unit.
61. Contracts based on *Framework Agreements* may be awarded by either:
- Applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition.
  - Where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
    - inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the contract to submit written *Tenders*;
    - fixing a time limit which is sufficiently long to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract;
    - awarding each contract to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.
  - *Officers* must note the requirement to apply a minimum 10 day standstill period for all call-off contracts awarded under the framework in excess of the appropriate EU Threshold.
  - *Officers* must ensure that any call-off contract awarded under the framework that is £100,000 or above has been entered onto the *Procurement Plan*.

### **Section 3 – Conducting Purchase and Disposal**

#### **Competition requirements for purchase, disposal and partnership arrangements**

62. The *Officer* must consider the total value of the contract when deciding the most appropriate procurement route. An *Officer* must not enter into separate contracts nor select a method of calculating the *Total Value* in order to minimise the application of these contract procedure rules.
63. The total value is the whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:
- (a) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period of the Contract. For the avoidance of doubt this is not the annual value.
  - (b) Where a series of contracts or a renewable contract is entered into for supplies/services of the same type during a twelve month period.
  - (c) Where the contract is for an uncertain duration, by multiplying the monthly payment by 48.
  - (d) For feasibility studies, the value of the scheme or contracts which may be awarded as a result.
  - (e) For *Nominated Suppliers and Sub-contractors*, the total value shall be the value of that part of the main contract to be fulfilled by the *Nominated Supplier or Sub-contractor*.
64. The following procedures apply where there are no other procedures that take precedence. Other procedures may include agency agreements with government. If in doubt, *Officers* must seek the advice of the *Assistant Director Law and Governance*.

#### **Purchasing – Competition Requirements**

65. Where the *Total Value* for a purchase is within the values in the first column below, the *Award Procedure* in the second column must be followed.

Total Contract Value	Award Procedure
Up to £9,999	One written <i>Quotation</i> ( <i>Quotations not required under £500</i> )
£10,000 - £24,999	At least three written <i>Quotations</i>
£25,000 - £99,999	At least three written <i>Quotations</i>  <i>If advertised, it must also be advertised on contracts finder</i>
£100,000 – EU Threshold	<i>Invitation to Tender</i> by advertisement (including using Contracts Finder) or list to at least five <i>Candidates</i>
Above EU Threshold	<i>EU Procedure</i> or, where this does not apply, <i>Invitation to Tender</i> by advertisement/list to at least five <i>Candidates</i>

66. Where it can be demonstrated that there are insufficient suitably qualified *Candidates* to meet the competition requirement, all suitably qualified *Candidates* must be invited.
67. For contracts with a value of £25,000 or above (and below the relevant EU threshold) that are advertised, must be advertised using Contracts Finder (whatever other advertising methods are used). The only exceptions to this are where quotes are sought from closed groups, or frameworks, approved lists or dynamic purchasing systems are used or direct awards are made.
68. Contracts that are over the relevant EU threshold must comply with the EU rules on publication and the use of OJEU notices. In addition advertising on Contracts finder is required.
69. When inviting *Quotations* up to the value of £99,999 *Officers* should consider how to encourage the participation of SME's and local suppliers in the process. *Officers* should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.
70. Where the *EU Procedure* is required, the *Officer* shall follow the most appropriate route for procurement, taking account of any relevant guidance and advice as provided by the *Corporate Procurement Unit*.

71. The EU thresholds vary according to what is being procured and the monetary values of the thresholds are updated every two years. Details of the thresholds are set out on the intranet together with information about procurement above EU thresholds.

### **Appointment of Consultants**

72. Consultant architects, engineers, surveyors and other professional *Consultants* shall be selected and commissions awarded in accordance with the procedures detailed within these Contract Procedure Rules. Where a local, regional or national Framework exists then the *Officer* must use that Framework or demonstrate an auditable reason for not doing so. If a Framework is not used then consultants shall be appointed as outlined above.
73. The engagement of a *Consultant* shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal contract which clearly sets out the terms of their appointment.
74. *Officers* will require *Consultants* to maintain professional indemnity insurance policies to the satisfaction of the relevant *Director* for the period of the contract and any warranty period.

### **Assets for Disposal**

75. Assets for disposal must be sent to public auction except where better *Value for Money* is likely to be obtained by inviting *Quotations* and *Tenders* (These may be invited by advertising on the Council's internet site). In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the *Departmental Finance Officer*.

### **Providing Services to External Purchasers**

76. Where contracts to work for organisations other than the Council are contemplated, the relevant *Director* must satisfy themselves that the work can be carried out with no detrimental effect to the Council and this decision is made in consultation with the relevant cabinet Member. A report detailing under which Statutory Powers they are tendering must be submitted to the *Assistant Director Law and Governance* for confirmation.

## **Social Value**

77. In line with the Public Services (Social Value) Act 2012, relevant procurements (of services over the current EU threshold) shall include consideration of the economic, social and environmental well-being of the area, how the Council might act with a view to securing improvement and whether to undertake any consultation in considering these improvements.

## **Local Economy and SME**

78. The Council recognises the importance of a thriving and sustainable economy and will seek to ensure, in compliance with EU law and the Social Value Act that all businesses, including local businesses and SME's are aware of and encouraged to participate in tendering opportunities.
79. Consideration should be given to using procedures that encourage maximum participation, including preliminary market consultation and the splitting up of contracts into lots that may encourage wider participation. While the Council cannot unfairly favour local suppliers, it is legitimate to give consideration in drawing up a specification to factors that may have relevance to locality. For example those which require service delivery to be within a certain timescale or location in order to be responsive to service need. It is also necessary for procurers to consider the social and economic and environmental aspects of letting contracts.

## **Collaborative working, Co-production and Partnership Arrangements**

80. The Council recognises the need to work collaboratively and more flexibly with the third and voluntary sector in the delivery of services to the local community. This may require more innovative approaches and early dialogue with the third sector, service users and communities in transforming the design and delivery of services.
81. Consideration should be given to using procedures that encourage maximum participation (for instance simplifying procedures and not using PQQ's unless necessary) and the splitting up of contracts into lots that may encourage wider participation.
82. Where appropriate the Council may include in its specification and award criteria, factors that may have relevance to locality such as the social and economic and environmental aspects of letting contracts.
83. In cases where it can be demonstrated that the partners are contributing to a joint outcome rather than where the Council is purchasing services or where grants are awarded these are not procurements but as this can limit the Council's ability to specify outcomes and performance manage results the rules can better define their scope in the introductory passages.
84. Officers should seek further advice from the Corporate Procurement Unit.

## Pre-tender Market Research and Consultation

85. The *Officer* responsible for the purchase:
- May consult potential suppliers prior to the issue of the *Invitation to Tender* in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential *Candidate*, but
  - Must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Candidates* or distort competition, and
  - Should seek advice from the Corporate Procurement Unit.

## Lots

86. In some cases splitting the contract into lots may be advantageous to the Council and will make the contract more attractive to suppliers, particularly SME's.
87. It is a legal requirement to consider whether to split a contract into lots. Consideration must be given to this and when lots are not used officers must be able to justify why it was not considered appropriate to do so.

## Standards and Award Criteria

88. The *Officer* must ascertain what are the relevant British, European or international standards that apply to the subject matter of the contract. The *Officer* must include those standards that are necessary properly to describe the required quality.
89. The *Officer* must define detailed *Award Criteria* that is appropriate to the purchase and designed to secure an outcome giving *Value for Money* for the authority.
90. The underlying principle of the award criteria shall be on the basis of the most economically advantageous tender (MEAT).
91. This may be on the basis of price or cost alone. It will be the lowest price where payment is to be made by the Council and the highest price if payment is to be received by the Council.
92. As well as price additional factors may also be relevant such as; service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, economic benefits to the local community, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. If you are unsure please contact the Corporate Procurement Unit for advice on award criteria and related tender specifications.

## Price/Quality Split

93. Most commonly the evaluation criteria will be based on a price/quality split.
94. There are significant consequences if the balance between cost and quality is lost. A split of 80% on quality and only 20% on price is giving a message to a tenderer that evaluation is based on quality and cost is no object. The local authority should not be giving out this message. Where price forms a significant part of the evaluation through the scoring this encourages bidders to make stretching submissions to deliver services at the best possible value.
95. A detailed specification is the best way of achieving quality in contracting and effective contract monitoring through a performance management framework. So that quality in delivery is achieved through the management of the contract after award rather than the evaluation process.
96. The following approaches are recommended as means of achieving quality in contracts in preference to price/quality split.
  - (a) 0 – 5 scoring criteria.
  - (b) The use of performance or outcomes based payments in all significant service contracts, which will be payable only when defined targets/quality standards are achieved. This will encourage the provider to take their own steps to ensure targets/quality standards are met throughout the contract.
  - (c) Contracts with appropriate termination/ suspension clauses to enable the Council to take steps to change bidders while avoiding complex litigation.
  - (d) Engagement with service users/ questionnaires.
  - (e) Performance targets which are tightly managed.
  - (f) Rigorous challenge through the evaluation of claims made by tenderers in bid documentation.
97. The quality safeguards above ensure that quality is maintained as a continuous requirement throughout the lifetime of the contract for service provision.
98. In the construction area there are variations but the higher figure (ie 60/40, 70/30, 80/20) will be on price. The most common being 80/20.
99. In the social care sector a greater emphasis is placed on quality. However there is a need to ensure that there is still an emphasis on price. In particular any proposal with 80% on quality should be resisted as giving the wrong message to providers. It is recommended that 40% should be the lowest with any case in which the price is less than 50% being subject to a specific business case to the procurement board as to why this is appropriate and how value for money will be achieved.
100. *Award Criteria* must include a suitable proportion of the evaluations criteria to be based on Social Value (unless there are appropriate reasons why Social Value should not apply). For tenders over the EU Threshold, this should usually be not less than ten per cent of the total award criteria and form part of the Quality Criteria.

## Invitations to Tender/Quotations

101. The *Invitation to Tender* shall state that no *Tender* will be considered unless it is received by the date and time stipulated in the *Invitation to Tender*. No *Tender* delivered in contravention of this clause shall be considered. All *Invitations to Tender* and *Quotations* will be issued through the Council's *e-Tendering & Contract Management System*, so far as such a system is available. Exceptions to this can be made if it is deemed that the process will disadvantage a particular sector or company.
102. All *Invitations to Tender* shall include the following:
- (a) A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
  - (b) A requirement for tenderers to declare that the *Tender* content, price or any other figure or particulars concerning the *Tender* have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
  - (c) A requirement for tenderers to complete fully and sign all *Tender* documents including a form of *Tender* and certificates relating to canvassing and non-collusion.
  - (d) Notification that *Tenders* are submitted to the Council on the basis that they are compiled at the tenderer's expense.
  - (e) Notification that no *Tender* will be considered unless it is enclosed in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates, but no other name or mark indicating the sender.
  - (f) A stipulation that any *Tenders* submitted by fax or other electronic means shall not be considered.
  - (g) A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and if possible in descending order of importance.
  - (h) The method by which any arithmetical errors discovered in the submitted *Tenders* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender* or vice versa.



103. All *Invitations to Tender* or *Quotations* must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rules 128 to 133).
104. The *Invitation to Tender* or *Quotation* must state that the Council is not bound to accept any *Quotation* or *Tender*.
105. All *Candidates* invited to *Tender* or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

### **Shortlisting**

106. Any *Shortlisting* must have regard to the financial and technical standards relevant to the contract and the *Award Criteria*. Special rules apply in respect of the *EU Procedure*.
107. When *Approved Lists* are used then *Shortlisting* can be carried out by an *Officer* in accordance with the *Shortlisting* criteria drawn up when the *Approved List* was compiled. However, where the *EU Procedure* applies, *Approved Lists* may not be used.

### **Submission, Receipt and Opening of Tenders/Quotations**

108. *Candidates* must be given an adequate period in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of *Tenders*. The *EU Procedure* lays down specific time periods, please speak to the Corporate Procurement Unit for advice for these timescales.
109. When the *e-Tendering & Contract Management System* is used tenders will be held securely until the appropriate time and date for release. The *Assistant Director Law and Governance* shall be responsible for the management of the *e-Tendering & Contract Management System*.
110. When using the *e-Tendering & Contract Management System*, the precise date and time of receipt is recorded automatically. The secure files are released by an *Officer* representing the *Assistant Director Law and Governance* and record immediately on opening on the *Tender Record Log*. *Tenders* received by fax or other electronic means (e.g. email) must be rejected.
111. When accepting hard copy *Tenders* these must be returned to the *Assistant Director Law and Governance*. *Tenders* received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with the Council's *e-Tendering & Contract Management System*. The *Assistant Director Law and Governance* will be responsible for the safekeeping of *Tenders* until the appointed time of opening. Each *Tender* must be:-

- Suitably recorded so as to subsequently verify the date and precise time it was received.
  - Adequately protected immediately on receipt to guard against amendment of its contents.
  - Recorded immediately on receipt in the *Tender Record Log*.
112. The *Assistant Director Law and Governance* must ensure that all hard copy *Tenders* are opened at the same time when the period for their submission has ended. The *Officer* or their representative must be present. *Tenders* must be opened in the presence of two *Officers* representing the *Assistant Director Law and Governance*
113. Upon opening the Tender sum must be recorded in the *Tender Record Log*. The *Tender Record Log* must be initialled on behalf of the *Assistant Director Law and Governance*.
114. The *Officer* must not disclose the names of *Candidates* to any staff involved in the receipt, custody or opening of *Tenders*.

### **Clarification Procedures and Post-tender Negotiation**

115. Providing clarification of an *Invitation to Tender* to potential or actual *Candidates* or seeking clarification of a *Tender* should only be carried out in writing. If using the e-*Tendering & Contract Management System* this should be used for all correspondence relating to clarification during the tender process. Responses to any queries raised regarding the *Invitation to Tender* documentation or process will be shared with all potential or actual *Candidates* if appropriate.
116. Discussions with tenderers after submission of a *Tender* and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price.
117. If post-tender negotiations are necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Candidates* have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the *Tender* documents. *Officers* appointed by the *Director* to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
118. Post-tender negotiation must only be conducted in accordance with the guidance issued by the *Assistant Director Law and Governance* who, together with the Corporate Procurement Unit must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a division independent to that leading the negotiations.

119. Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

### **Evaluation, Award of Contract, and Debriefing Candidates**

120. Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Candidates* must be preserved at all times and information about one *Candidate's* response must not be given to another *Candidate*.
121. Contracts must be evaluated and awarded in accordance with the *Award Criteria*. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
122. The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their *Tender*. Alternatively, if the rates in the *Tender*, rather than the overall price, were stated within the *Tender* invitation as being dominant, an amended *Tender* price may be requested to accord with the rates given by the tenderer.
123. *Officers* may accept *Quotations* and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules. Procurement Board shall also approve the awarding of contracts that represent a *Strategic Procurement* and the details will be reported to *Cabinet*.
124. Where the total value of the contract is £100,000 or above, the *Officer* must notify all *Candidates* simultaneously and as soon as possible of the intention to award the contract to the successful *Candidate*. For those *Tenders* in excess of the EU Thresholds or if it is a *Strategic Procurement*, the *Officer* must provide unsuccessful *Candidates* with a standstill period of at least ten days in which to challenge the decision before the *Officer* awards the contract. In the event that an unsuccessful *Candidate* challenges the decision then the *Officer* should immediately seek the advice from the *Assistant Director Law and Governance*.

125. The *Officer* shall simultaneously by quickest means possible, debrief in writing all those *Candidates* who submitted a bid. No information, other than the following, should be given without taking the advice of the *Assistant Director Law and Governance* :-
- The name of the winning bidder(s).
  - The award criteria as stated in the tender documentation.
  - The scores of the unsuccessful and successful bidder(s) against the award criteria.
  - A paragraph explaining fully the reasons why the company has been unsuccessful. This must include the characteristics and relative advantages of the successful bid against the unsuccessful tenderers bid. Officers must insert detailed information in relation to the areas where the Candidate has failed to score well.
126. Where a standstill period is required this should be a minimum of 10 calendar days where information is provided electronically (email, fax) if alternative methods are used the period required is 15 calendar days. The standstill period must commence on a working day, the standstill period shall commence the day after the notification is issued. The standstill period shall end on midnight on the 10/15 day. The standstill notification must clearly indicate when the standstill period shall end.
127. If an *Officer* is notified by an unsuccessful bidder of their intention to challenge the decision to award a contract they should take no further action other than contact Corporate Procurement Unit *and Legal Services*. The contract must not be awarded until legal proceedings have been concluded.
128. For contracts with a value of £25,000 or over it is a legal requirement that information is published on Contracts Finder, within a reasonable time, giving:
- (a) The name of the contractor
  - (b) The date on which the contract was entered into
  - (c) The value of the contract
  - (d) Whether the contractor is an SME or VCSE

## **Section 4 – Contract and Other Formalities**

### **Contract Documents**

#### **Relevant Contracts**

129. All *Relevant Contracts* shall be in writing. The *Council's Standard Terms & Conditions* or Industry Standard Terms & Conditions e.g. JCT or NEC issued by a relevant professional body must be used wherever possible. Terms and Conditions must be agreed by Legal Services prior to a tender being issued.

130. All *Relevant Contracts*, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done).
- The provisions for payment (i.e. the price to be paid and when).
- The time, or times, within which the contract is to be performed.
- The provisions for the Council to terminate the contract.

131. In addition, every *Relevant Contract* must also state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent.
- Any insurance requirements.
- Health and safety requirements.
- Ombudsman requirements.
- Data protection requirements, if relevant.
- That charter standards are to be met if relevant.
- Race relations requirements.
- Equality Act requirements.
- Freedom of Information Act requirements.
- Where *Agents* are used to let contracts that *Agents* must comply with the Council's Contract Procedure Rules.
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

132. All contracts will be let using the *Council's Standard Terms and Conditions*. The formal advice of the *Assistant Director Law and Governance* must be sought for contracts for which it is not proposed to use the *Standard Terms and Conditions* for example:

- Where it is proposed to use Industry Standard Contracts e.g. NEC Conditions of Contract.
- Where the other party wants to vary the *Council's Standard Terms and Conditions*.
- Where the other party proposes to use their own terms and conditions.
- Those involving leasing arrangements.

### **Contract Term**

133. The contract term is to be set at a length that takes into account of the possibility that the Council may need to withdraw from service provision including the area being contracted for. Consideration needs to be given to a contract length that will achieve value, give flexibility (for instance by including extension clauses in the contract) and avoid excessive lock in periods.

134. It is proposed that contracts for five years will be let on the basis of two years with potential for extension for a two or one year period up to a total of five years. This may not be appropriate in cases where for example a large scale IT system is being

implemented where the implementation may take a period of two years but may well be appropriate for service delivery contracts where there are alternative models of delivery or scope for service reductions.

### **Contract Formalities**

135. *Relevant Contracts* shall be completed as follows:

- Up to £99,999 signature *Director* or their *Authorised Signatory* or an *Authorised Signatory in Legal Services* i.e. person authorised by *Assistant Director Law and Governance*
- £100,000 or above - sealed (see Rule 137).
- Any Contract for performances at the Hippodrome can be signed by the Assistant Director – Community Services.

136. All contracts must be concluded formally in writing before the supply, service or construction work begins, and in any event before payments are made, except in exceptional circumstances, and then only with the written consent of the *Assistant Director Law and Governance*. An award letter is insufficient.

137. The *Officer* responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

### **Sealing**

138. Where contracts are completed by each side adding their formal seal, such contracts shall be signed by the *Assistant Director Law and Governance* or *Authorised Signatory* i.e. person authorised by *Assistant Director Law and Governance* together with the fixing of Council's seal.

139. Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

140. A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end.
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services.
- There is any doubt about the authority of the person signing for the other contracting party.
- The *Total Value* is £100,000 or above.

## Bonds and Parent Company Guarantees

141. The *Officer* must consult with the *Group Director of Operations* about whether a *Parent Company Guarantee* is necessary when a *Candidate*:

- Is a subsidiary of a parent company and the *Total Value* exceeds £250,000.
- Award is based on evaluation of the parent company.
- There is some concern about the stability of the *Candidate*.

142. The *Officer* must consult with the *Group Director of Operations* about whether a *Bond* is needed:

- Where the *Total Value* exceeds £1,000,000.
- Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the *Candidate*.

## Prevention of Corruption

143. The *Officer* must comply with the *Code of Conduct for Employees* and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the *Officer* to prove that anything received was not received corruptly. High standards of conduct are obligatory.

144. The following clause must be put in every written Council contract:

- a. *The Contractor shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council any gift or consideration of any kind as an inducement or reward for doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Council, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract. The attention of the Contractor is drawn to the criminal offences under the Bribery Act 2010.*
- b. *The Contractor warrants that it has not paid commission nor agreed to pay any commission to any Employee or representative of the Council by the Contractor or on the Contractor's behalf.*
- c. *Where the Contractor engages in conduct prohibited by clauses detailed above in relation to this or any other contract with the Council, the Council has the right to:*
  - (a) *terminate the Contract and recover from the Contractor the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the provision of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract Period; or*

- (b) *recover in full from the Contractor any other loss sustained by the Council in consequence of any breach of this clause whether or not the Contract has been terminated.*

## **Declaration of Interests**

145. Employees must be aware that it is a serious criminal offence under the Prevention of Corruption Acts for them to receive or give any gift, loan, reward or advantage in their official capacity 'for doing, or not doing, anything' or 'showing favour, or disfavour to any person'. If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained.
146. For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to the Assistant Director Law and Governance.

## **Section 5 - Contract Management**

### **Managing Contracts**

147. Where appropriate, taking account of cost, longevity and risk associated with the contract, sponsoring departments are to name contract managers for all new contracts. All such contracts must have a named Council *Contract Manager* and a named contractor manager for the entirety of the contract.
148. *Contract Managers* must have regular review meetings with the *Contractor* to ensure the requirements of the Contract are met.
149. Save as otherwise provided in these Rules, a Contract can only be extended if an optional period of extension was included in the terms and conditions of the original Contract. When considering an extension to a Contract Officers must take into account *Value for Money* implications. In order to extend a Contract the contractor or supplier has to satisfy the requirements set out in the Contract in relation to the extension period.

### **Risk Assessment and Contingency Planning**

150. For all contracts that are considered *Business Critical*, contract managers must:
- Maintain a risk register during the contract period.
  - Undertake appropriate risk assessments and for identified risks.
  - Ensure contingency measures are in place.

### **Contract Monitoring, Evaluation and Review**

151. All contracts which have a value higher than the *EU Threshold* limits, or which are *High Risk*, are to be subject to monthly formal review with the contractor.



152. During the life of the contract, the *Officer* must monitor in respect of:

- Performance
- Compliance with specification and contract cost
- Any *Value for Money* requirements
- User satisfaction and risk management.

153. Where the *Total Value* of the contract exceeds £500,000, the *Officer* must make a written report to the *Economy and Resources Scrutiny Committee* evaluating the extent to which the purchasing need and the contract objectives were met. This should be done normally when the contract is completed.

## Definitions Appendix

### **Agent**

A person or organisation acting on behalf of the council or on behalf of another organisation.

### **Approved List**

A list drawn up in accordance with Rules 48 to 54.

### **Assistant Director Law and Governance**

The officer defined as such in the Constitution. Officer responsible for Legal Services, which includes the Corporate Procurement Unit

### **Assistant Director**

The *Officers* defined as such in the *Constitution*.

### **Authorised Signatory**

*Officers* appointed by Directors to sign on their behalf.

### **Award Criteria**

The criteria by which the successful *Quotation* or *Tender* is to be selected (see further Rules 88 to 99 and 101(g)).

### **Award Procedure**

The procedure for awarding a contract as specified in Rules 65 to 71; 88 to 99; and 119 to 127.

### **Best Value**

The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now, in many instances, been superseded by *Value for Money*.

### **Bond**

An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10 per cent of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.

### **Business Critical**

A Contract that is essential to the delivery of Council Services and is one that could have an impact on functions integral to Council service delivery should it fail or go wrong eg Waste Management

### **Cabinet**

The Council's Cabinet as defined in the *Constitution*.

**Candidate**

Any person who asks or is invited to submit a *Quotation* or *Tender*.

**Chief Finance Officer**

The Group Director of Operations or such other Officer as may be designated Chief Finance Officer by the Council.

**Committee**

A Committee that has power to make decisions for the Council, for example a joint committee with another local authority, but not a Scrutiny Committee.

**Constitution**

The constitutional document approved by the Council which:

- allocates powers and responsibility within the Council and between it and others
- delegates authority to act to the *Cabinet*, *Committees* and *Officers*
- regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

**Consultant**

Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to employees with the skills, experience or capacity to undertake the work.

**Contract Manager**

The *Officer* appointed by the relevant *Director* to have responsibility for managing the contract.

**Contracting Decision**

Any of the following decisions:

- A decision of the Procurement Board
- Composition of *Approved Lists*
- Withdrawal of *Invitation to Tender*
- Whom to invite to submit a *Quotation* or *Tender Shortlisting*
- Award of contract
- Any decision to terminate a contract.

**Corporate Contract**

A contract let by the *Corporate Procurement Unit* to support the Council's aim of achieving *Value for Money*.

**Corporate Procurement Unit**

The Council's central procurement unit charged with providing strategic direction and advice to secure *Value for Money* in the Council's procurement activities.

**Council's Standard Terms & Conditions**

Terms and Conditions agreed by the Council and used in all Council contracts.

**Dynamic Purchasing System**

An electronic system for the purchase of commonly used goods services or works.

**Departmental Finance Officer**

The most senior *Officer* representing the *Group Director of Operations* or designated by him/her to provide financial advice to the *Director* of the relevant Department.

**Director**

The Officers defined as such in the *Constitution*.

**e-Auction**

A secure electronic hosted system by which suppliers bid against each other to reduce prices.

**e-Tendering and Contract Management System**

The system the Council has adopted to carry out tendering electronically.

**EU Procedure**

The procedure required by the EU where the *Total Value* exceeds the *EU Threshold*.

**EU Threshold**

The contract value at which the full regime of the EU public procurement directives apply.

**European Economic Area**

The 28 members of the European Union, and Norway, Iceland and Liechtenstein.

**Financial Procedure Rules**

The financial regulations outlining *Officer* responsibilities for financial matters issued by the *Chief Finance Officer* in accordance with the *Constitution*.

**Framework Agreement**

An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

### **Government Procurement Agreement**

The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the *European Economic Area* are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

### **Assistant Director Law and Governance**

Officer responsible for the Governance arrangements for the Authority.

### **High Risk**

A high-risk purchase is one that presents the potential for substantial exposure on the Council's part should it fail or goes wrong.

### **High Value**

A high-value purchase is where the value exceeds the *EU Threshold* values.

### **Invitation to Tender**

Invitation to tender documents in the form required by these Contract Procedure Rules.

### **Line Manager**

The *Officer's* immediate superior or the *Officer* designated by the Director to exercise the role reserved to the line manager by these Contract Procedure Rules.

### **Nominated Suppliers and Sub-contractors**

Those persons specified in a main contract for the discharge of any part of that contract.

### **Non-commercial Considerations:**

- (a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
- (b) Whether the terms on which contractor's contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.
- (c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.
- (d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').
- (e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.
- (f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.
- (g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.
- (h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.

Workforce matters and industrial disputes, as defined in paragraphs (a) and (d) above, cease to be non-commercial considerations to the extent necessary or expedient to comply with Best *Value*; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 2006 (*TUPE*) may apply.

**Officer**

The Officer designated by the *Director* to deal with the contract in question.

**Parent Company Guarantee**

A contract that binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.

**Procurement Plan**

A list of all the planned procurements for the coming year presented to Cabinet to enable them to designate a procurement as Strategic or Non-Strategic

**Procurement Board**

The main officer body for making procurement decisions in the Council.

**Property Procedure Rules**

Rules that apply to the acquisition, disposal or transfer of land or property.

**Quotation**

A quotation of price and any other relevant matter (without the formal issue of an *Invitation to Tender*).

**Relevant Contract**

Contracts to which these contract procedure rules apply (see Rules 19 and 20).

**Economy and Resources Scrutiny Committee**

Economy and Resources Scrutiny Committee as defined in the *Constitution*.

**SME**

Small and medium sized enterprises.

**Shortlisting**

The process of selecting *Candidates* who are to be invited to quote or bid or to proceed to final evaluation.

**Standard Terms and Conditions**

The contractual terms that the *Assistant Director Law and Governance* has agreed and that form part of the Councils contract.

**Strategic Procurement**

A decision that Members believe is high risk, high profile or high value enough to be made by *Cabinet*.

**Supervising Officer**

The *Line Manager's* immediate superior.

**Tender**

A *Candidate's* proposal submitted in response to an *Invitation to Tender*.

**Tender Record Log**

The log kept by the Assistant Director Law and Governance or his representative to record details of *Tenders* (see Rule 111).

**TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)**

Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

**Value for Money**

Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

**VCSE**

A non-governmental organization that is value driven and which principally reinvests its surpluses to further social, environmental and cultural objects.

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# Property Procedure Rules

## Introduction

1. These rules constitute the Council's Procedures in relation to property contracts and the effective, efficient use, occupation and management of property.

## Interpretation

2. These terms will have the following meanings in the Property Procedure Rules:-

Acquisition	The acquisition of Property by the Council, including the extension of an existing lease (other than by exercise of an option to renew) and the surrender or assignment of a lease to the Council.
Director	A Director of the Council including the Chief Executive
Disposal	The disposal of Property by the Council, including the surrender or assignment of a lease by the Council
Officer	A Council employee or other authorised agent
Property	Any estate or interest in land and/or buildings
Property Contract	A contract relating to Property including (but not limited to) transfers, leases, easements, tenancy agreements and licences
Surveyor	A professionally qualified surveyor or valuer employed or otherwise retained by the Council to provide expert advice on Property Contracts
Tenderer	A person who has expressed an interest in tendering for a Property Contract or who has tendered for a Property Contract
References	References in these Rules relate to :-

- a) any legislation (e.g. Act of Parliament, Statutory Instrument, EU Directive) and include a reference to any amendment or re-enactment of such legislation;
- b) the singular include the plural and vice-versa;
- c) Directors, including the Chief Executive, the Head of Property Asset Management and the Assistant Director Law and Governance be taken to include such Officers as are designated by them to undertake the duties and responsibilities set out in these Rules;
- d) The Cabinet Member with the Resources Portfolio shall be taken to include such Member designated to undertake the duties and responsibilities set out in these Rules; and
- e) References to values estimated at the time an approval is given shall not be invalidated by the fact that the actual Acquisition or Disposal figure differs from the estimated figure. The value of any transaction shall be taken to be the Surveyor's opinion as to the open market value as between willing parties, unless otherwise stated.

## **General**

- 3. These Rules are made by the Council on the advice of the Group Assistant Director Economic Growth in consultation with the Assistant Director Law and Governance.
- 4. The Assistant Director Economic Growth (in consultation with the Assistant Director Law and Governance) shall regularly review the application and effect of these Rules and shall propose such amended Rules to the Council as he/she may consider appropriate.
- 5. Directors shall endeavour to ensure that relevant Officers within their Departments, framework partners and contractors working for the Council, are aware of and comply with these Rules.

## **Management of Council Property**

6. The Assistant Director Economic Growth is designated the Council's Corporate Property Officer and through the Head of Property Asset Management, is responsible for the application and compliance of Property Procedure Rules.
7. The Corporate Property Officer is responsible for the maintenance and updating of the Council's Asset Management Plan.
8. Where any transaction including the transfer of property from one use to another, requires public notice to be given, for example, the planned disposal of public open space, the Head of Property Asset Management and the Assistant Director Law and Governance will do so and report responses to Cabinet for consideration.
9. The Head of Property Asset Management is responsible for managing the Council's Property in accordance with the principles of good estate management to include, for example, the following :-
  - (a) new lettings, lease renewals, rent reviews, acquisitions and disposals;
  - (b) provision of all property valuations for example for appropriation, stock transfer, balance sheet, statutory subsidy, Right to Buy, internal rate of return and grant purposes; and
  - (c) lodging objections/proposals and pursue rating appeals in respect of Council property where appropriate.

## **Delegated Powers**

10. To assist with the management of property, approvals for some property related transactions for example, new lease, lease renewal, rent reviews, surrender, assignment, licence, easement etc have been delegated to the Assistant Director Economic Growth under the Council's Scheme of Delegation to Officers.
11. A full list of the delegated powers is available to view in this Constitution under 'Responsibility for Functions'.

## **Compliance with Legislation**

12. Property Contracts shall comply with relevant applicable legislation and government Guidance.
13. The Assistant Director Law and Governance shall ensure that the Council has the legal power to enter into Property Contracts and that the Council does not purport to enter into any such contract which is ultra vires.

## **Signature/Sealing of Property Contract**

14. The signing and sealing of property contracts shall be undertaken by the Assistant Director Law and Governance

## **Role of Surveyor**

15. The Head of Property Asset Management and any nominated Surveyor shall act on behalf of the Council in connection with Property Contracts and in accordance with these Rules.

## **Acquisitions**

16. In relation to acquisition of Property :-

## **Approval for Acquisitions**

17. Where Property is to be acquired by the Council including by a compulsory purchase order the Group Director of is to be responsible for seeking Cabinet approval, except where approval is delegated to the Assistant Director Economic Growth
18. No approval shall be sought or given for the Acquisition of any Property unless there is adequate and foreseeable budgetary provision for the Acquisition and any expenditure consequent upon the Acquisition.

## **Terms of Acquisition**

19. The Head of Property Asset Management is responsible for determining the terms of the Acquisition of Property, and shall, except for those acquisitions covered under the Scheme of Delegation to Officers, report such terms for approval to Cabinet.

20. The Assistant Director Law and Governance is responsible for preparing and completing documentation for the Acquisition of Property in accordance with the terms referred to in these rules.

### **Declaring Premises Surplus to Operational Requirements**

21. When a Property is no longer required for its current use, the appropriate Director who has responsibility for the management of the property shall inform the Head of Property Asset Management. The Head of Property Asset Management shall refer to the Procedure for 'Declaring Premises Surplus to Operational Requirements' and the Surplus Assets Disposal Process.
22. The procedure and process is available to view on the Council's web site ([www.darlington.gov.uk](http://www.darlington.gov.uk)).

### **Disposals**

23. In relation to disposals of property :-

#### **Approval for Disposals**

24. Where Property is to be disposed of by the Council, the Assistant Director Economic Growth is to be responsible for seeking Cabinet approval, except where approval is delegated to the Assistant Director Economic Growth
25. Where a property is to be disposed of by sale or by long lease (i.e. 7 years or longer) at an undervalue, approval of Cabinet is required, and where the amount of the undervalue is more than £2,000,000 the consent of the Secretary of State is also required other than in circumstances where the General Consent Order 2003 of the 1972 Local Government Act applies.

### **Right to Buy**

26. Where Right to Buy applications are made to the Council under the Housing Act 1985 and where the Right to Buy is admitted, the Head of Property Asset Management shall be responsible for providing the property valuation and the Assistant Director Law and Governance shall dispose of the Property in accordance with the said Act.

## **External Consents to Disposal**

27. The Head of Property Asset Management in consultation with the Assistant Director Law and Governance is responsible for obtaining such external consents (if any) as are required for a Disposal (except in relation to the disposal of school playing fields, for which the Director of People, or other appropriate Director, shall be responsible for seeking any necessary approvals).

## **Method of Disposal**

28. The Head of Property Asset Management shall ensure that the most appropriate disposal process is used, having regard to the likely value of the property and market conditions.
29. The Head of Property Asset Management shall take account of relevant factors relating to a Disposal.
30. If the proposed method of disposal is by public auction, the property must not be sold at less than the reserve price determined in agreement between the Head of Property Asset Management and the appointed auctioneer, subject to obtaining the prior approval of Cabinet including the reserve price.

## **Terms of Disposal**

31. The Head of Property Asset Management is responsible for determining the terms for the Disposal of Property and shall report such terms to Cabinet for approval.
32. The Assistant Director Law and Governance is responsible for preparing and completing the documentation for the Disposal of Property in accordance with the terms referred to in these Rules subject to any variations agreed with the Head of Property Asset Management and subject also to such further terms as the Assistant Director Law and Governance considers appropriate in the best interests of the Council.
33. Except where the approval of Cabinet has been obtained in accordance with these rules best consideration for the Disposal shall be sought pursuant to Section 123 of the Local Government Act 1972.

## **Disposals by Tender (Informal or Formal)**

34. This Rule applies to Disposals of Property by tender whether the tender is subject to contract or is capable of immediate acceptance.
35. A tender may only be considered if :-
  - (a) it has been received in a sealed envelope marked "Tender" and indicating the Property referred to in the tender; and
  - (b) the identity of the Tenderer cannot be ascertained from the tender envelope; and
  - (c) subject to these Rules, the tender has been returned to the Group Director of Services before the tender closing date (which shall be a time and date when the Town Hall is open for business).
36. The Assistant Director Economic Growth shall be responsible for the reception and safe custody of tenders until they are opened.
37. Tenders shall be opened at the same time and in the presence of the Head of Property Asset Management, the Cabinet Member with the Resources Portfolio and the Assistant Director Economic Growth who shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the Member(s) and Officers present, the identities of Tenderers and the tendered amounts. A copy of such a record shall be provided as soon as practicable to the Cabinet Member with the Resources Portfolio.
38. If a tender is received after the specified tender closing date and time, but before tenders have been opened, it may be considered by the Head of Property Asset Management and the Assistant Director Law and Governance in consultation with the Cabinet Member with the Resources Portfolio.

## **Tender Evaluation**

39. Tenders shall be evaluated by the Head of Property Asset Management and reported to the Cabinet Member with the Resources Portfolio.
40. The Assistant Director Economic Growth shall accept the tender which best meets the evaluation criteria outlined in sales particulars and offers best consideration for the Property in accordance with these Rules. The Head of Property Asset Management shall seek to ensure

that the tender evaluation process is fair, and so far as is consistent with the achievement of best consideration by the Council, that the basis on which tenders are to be evaluated has been established before tenders are opened.

### **Alterations to Tenders**

41. Tenders may not be altered by Tenderers after the tender closing date except where the Head of Property Asset Management is satisfied that arithmetical errors have been inadvertently made by the Tenderer, in which event the Tenderer shall be invited to correct them.

### **Post Tender Negotiations**

42. Post tender negotiation may be undertaken with tenderer(s) by the Head of Property Asset Management (in consultation with the Cabinet Member with the Resources Portfolio) to address the following :-
- (a) to take account of the conditionality elements of the tender (if any) for example the grant of an implementable planning permission and site investigation/ground condition reports and to agree consequential reductions/adjustments to the tender;
  - (b) to consider the effects of vandalism/theft to the value of a property between a tender being received/accepted and contracts being exchanged and to agree reasonable reduction/adjustment of the tender;
  - (c) where added value may be obtained.
43. The post tender negotiations are undertaken either with all Tenderers, or with such Tenderer(s) as the Head of Property Asset Management in consultation with the Assistant Director Economic Growth considers it appropriate to invite having regard to the value of their tenders and any conditions attached to them.
44. Record of the negotiations and any added value obtained or reduction agreed is kept by the Head of Property Asset Management.
45. Any such added value obtained or reduction agreed by the post tender negotiations is incorporated into the Property Contract with the successful Tenderer.

### **Exceptions to Property Procedure Rules**



46. There are no exceptions to the property procedure rules unless with the prior approval of Cabinet or if it is deemed to be an emergency in which event the emergency powers conferred on the Assistant Director Economic Growth be invoked in line with the Council's Procedure Rules.

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# 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 related to, or a partner of, a Member or Officer of the Council.
- (b) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

### (2) Seeking support for appointment :-

- (a) Subject to paragraph (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) Subject to paragraph (a), no Councillor will seek support for any person for any appointment within the Council.

## 2. APPOINTMENT OF HEAD OF PAID SERVICE (CHIEF EXECUTIVE )

- (1) A shortlist of applicants qualified for the post shall be selected by the Group Director of Operations in consultation with the Leader and Deputy Leader of the Council and the Cabinet Member with Resources Portfolio (or their respective nominees from Cabinet).
- (2) The Full Council will approve the appointment of the Head of Paid Service ( Chief Executive) following the recommendation of such an appointment by the Human Resources Committee, which shall consist of 9 Members, formed for that purpose.
- (3) The Full Council itself must approve the appointment before the offer of appointment is made in accordance with the protocols (**Appendix 1** attached to these Rules).
- (4) The Proper Officer (Assistant Director Law and Governance) shall also notify every Member of the Cabinet and give a specified time within which they can make an objection to the Leader in accordance with the Protocols (see **Appendix 1** attached to these Rules). The Leader can then object to the appointment on behalf of

the Cabinet.

- (5) 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 Cabinet.

### 3. APPOINTMENT OF CHIEF OFFICERS

- (1) Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among the existing Officers, the Council will :-
  - (a) draw up a statement specifying :-
    - (i) the duties of the Officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed.
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph 3(1(a)) to be sent to any person on request.
- (2) A shortlist of applicants qualified for the post shall be selected by the Chief Executive in consultation with the Leader (or Deputy Leader) of the Council; the relevant Cabinet Member(s) and the Cabinet Member with the Resources Portfolio.
- (3) In relation to all Directors and Chief Officer posts (both statutory and non-statutory) appointments shall be made by a Human Resources Chief Officers Appointments Panel which shall consist of eight Members. Statutory posts currently include the Director with responsibility for Children's Services, the Director with responsibility for Adult Services, the Director of Public Health, the Chief Finance Officer/S.151 Officer and the Monitoring Officer.
- (4) The Proper Officer (Assistant Director Law and Governance) shall also notify every Member of the Cabinet and give a specified time within which they can make an objection to the Leader in accordance with the Protocols (**Appendix 2** attached to these Rules). The Leader can then object to the appointment on behalf of

the Cabinet.

- (5) The Panel shall only make or approve the appointment of a Chief Officer where no well-founded objection from any Member of the Cabinet has been received.

#### **4. OTHER APPOINTMENTS**

##### **(1) Deputy Chief Officers**

- (a) A shortlist of applicants qualified for the post shall be selected by the relevant Director in consultation with the Leader (or Deputy Leader) of the Council; the relevant Cabinet Member and the Cabinet Member with the Resources Portfolio.
- (b) Appointments to the Deputy Chief Officers posts shall be undertaken by the Human Resources Panel (sitting as an Appointments Panel) which will comprise of five Members.
- (c) The Proper Officer (Assistant Director Law and Governance) shall also notify every Member of Cabinet and give a specified time which they can make an objection to the Leader in accordance with the Protocols (**Appendix 3** attached to these Rules). The Leader can then object to the appointment on behalf of the Cabinet.

##### **(2) Appointments below Deputy Chief Officers**

The appointment of all Officers below Deputy Chief Officers shall be delegated to the relevant Chief Officer and may not be made by Councillors.

##### **(3) Assistants to Political Groups**

Appointments of an assistant to a Political Group shall be made in accordance with the wishes of the Political Group.

## 5. DISCIPLINARY ACTION AND DISMISSAL

- (1) All Chief Officers, including the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months beginning on the day the suspension takes effect, unless directed otherwise by the designated independent person referred to in (2) below.
- (2) Before any decision is taken to dismiss of the Head of Paid Service, Chief Finance Officer or the Monitoring Officer, the Human Resources Advisory Panel must be convened to advise on any matter that could lead to the dismissal of one of these officers. This is as set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
- (3) The function of dismissal of, and taking disciplinary action against, any employee of the Council will be the responsibility of the Chief Executive, or a Chief Officer, or appropriate senior officer nominated by the Chief Executive.
- (4) Councillors will not be involved in disciplinary action against any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for an investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of action.
- (5) Councillors will not be involved in the dismissal of any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of dismissals.
- (6) Where a Committee, Panel or Officer ('the Dismissor') is discharging the function of dismissal of the Head of Paid Service Executive, Chief Finance Officer or the Monitoring Officer the full Council must approve that dismissal before notice of dismissal is given.
- (7) Where a Committee or a Panel ('the Dismissor') is discharging the function of dismissal of a Chief Officer, Assistant Chief Officer or

Political Assistant, at least one Cabinet Member must be a member of that Committee or Panel.

(8) Notice of the dismissal of the Chief Executive, Chief Officer, Assistant Chief Officer or Political Assistant will 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 of :-

(i) the name of the person who the Dismissor wishes to dismiss;

(iii) any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and

(iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and

either :-

(i) the Leader has, within that period specified in the notice under sub-paragraph (b)(iii), notified the Dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;

(ii) the Proper Officer has notified the Dismissor that no objection was received by him within that period from the Leader; or

(iii) the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

(9) For the purposes of 8(b(iii)) above, the Dismissor will consider any such objection from the Leader in a meeting of the Dismissor duly called, as appropriate, by the Assistant Director Law and

Governance for that purpose.

- (10) For the purposes of (7) above, an objection must be material and well-founded. For an objection to be well-founded, it must be a matter which can be substantiated. This is intended to mean that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the facts or information are accurate and true. In addition, it must also be material i.e. it must be relevant to the process and the proposed dismissal and be sufficient to warrant a decision not to dismiss.
- (11) Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, email or fax, but in any event, must be received by the recipient within the relevant period specified.

## **6. POLITICAL ASSISTANTS**

Under Section 9(5) of the Local Government and Housing Act 1989, where Members are divided into different Political Groups, the Council is required to :-

- (a) prohibit the making of an appointment of a Political Assistant to a political group until such posts have been allocated to all groups qualifying for one;
- (b) prohibit the allocation of such a post to a group which did not qualify for one; and
- (c) prohibit the allocation of more than one post to any group.



## **Protocol for Appointment of Chief Executive (Head of Paid Service)**

### **A. Approval by Full Council.**

1. Any offer of appointment must be approved by the Full Council before the offer is made.
2. A special meeting of Full Council will be summoned by the Assistant Director Law and Governance, giving five clear working days notice, unless the matter can conveniently be dealt with at an ordinary meeting of the Full Council.
3. The Agenda for such meeting will contain an item seeking the approval of Full Council to the proposed appointment to the post and a summary report of the process followed by the Human Resources Committee together with a note of their decision will be circulated to all Members of the Council at least five clear working days prior to the meeting of Full Council.
4. It is expected that non-approval would occur only on an exceptional basis, based on objections which are material and well-founded, such as, undeclared relationship to a Member of the Council or non-declaration of an unspent criminal conviction. If approval is not granted, the Council shall indicate the reason(s) for non-approval and the matter will be referred back to the Human Resources Committee for further consideration.

### **B. Objection by Cabinet**

5. In addition, the Human Resources Committee shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person to whom the Committee wishes to make the offer of appointment and any other particulars which the Committee considers relevant to the appointment.
6. The Proper Officer (Assistant Director Law and Governance) shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Human Resources Committee.
7. The notice shall specify the name of the person to whom the Human Resources Committee wishes to make the offer, any other particulars

relevant to the appointment which the Committee has notified to the Proper Officer (Assistant Director Law and Governance) and the period of 24 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.

8. Subject to Section A above, an offer of appointment may be made if either:-
  - (a) the Leader has, within the period specified above, notified the Human Resources Committee that neither he nor any other Member of the Cabinet has any objection to the making of the offer; or
  - (b) the Proper Officer (Assistant Director Law and Governance) has notified the Human Resources Committee that no objection was received by him within that period from the Leader; or
  - (c) the Human Resources Committee is satisfied that any objection received from the Leader within that period is not material or is not well founded.
9. For the purposes of 8(c) above, the Human Resources Committee will consider any such objection from the Leader in a meeting of the Committee duly called by the Assistant Director Law and Governance for that purpose.
10. For the purposes of paragraph 8(c) above, an objection must to be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly, this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen as being very much an exceptional circumstance.

#### 11. **Example**

A Cabinet Member objects to the appointment of a prospective Chief Executive (Head of Paid Service) on the grounds of that he/she being a Solicitor, has been found guilty of conduct unbecoming a Solicitor, contrary to the Law Society's Practice Rules. This could be seen as relevant to the appointment of a high profile position where the highest

standards of conduct can reasonably be expected. The objection would be material and well-founded.

12. Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, by e-mail or by fax but in any event must be received by the recipient within the relevant period specified.

## **Protocol for Appointment of Chief Officers**

**Note:** This protocol applies to those posts referred to in Section 3 above.

### **Objection by Cabinet**

1. The Human Resources Chief Officers Appointments Panel (HRCOAP) shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person to whom the HRCOAP wishes to make the offer of appointment and any other particulars which the Panel considers are relevant to the appointment.
2. The Proper Officer (Assistant Director Law and Governance) shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the HRCOAP.
3. The notice shall specify the name of the person to whom the Panel wishes to make the offer, any other particulars relevant to the appointment which the HRCOAP has notified to the Proper Officer (Assistant Director Law and Governance) and the period of 48 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
4. An offer of appointment may be made if either:-
  - (a) the Leader has, within the period specified above, notified the HRCOAP that neither he nor any other Member of the Cabinet has any objection to the making of the offer; or
  - (b) the Proper Officer (Assistant Director Law and Governance) has notified the HRCOAP that no objection was received by him within that period from the Leader; or
  - (c) the HRCOAP is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the HRCOAP will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must

be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen to be very much an exceptional circumstance.

**7. Example :-**

A Cabinet Member objects to the appointment of a prospective Assistant Director on the grounds that he/she has a conviction for an offence involving dishonesty. The objection, would, clearly, be material and well-founded.

8. Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post or by e-mail but in any event must be received by the recipient within the relevant period specified.

## **Protocol for Appointment of Deputy Chief Officers**

Note: This protocol applies to those posts referred to in Section 4(1) above.

### **Objection by Cabinet**

1. The Human Resources Panel (sitting as an Appointments Panel) shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person to whom it wishes to make the offer of appointment and any other particulars which the Panel considers are relevant to the appointment.
2. The Proper Officer (Assistant Director Law and Governance) shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Panel.
3. The notice shall specify the name of the person to whom the Panel wishes to make the offer, any other particulars relevant to the appointment which the Panel has notified to the Proper Officer (Assistant Director Law and Governance) and the period of 48 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
4. An offer of appointment may be made if either:-
  - (a) the Leader has, within the period specified above, notified the Panel that neither he nor any other Member of the Cabinet has any objection to the making of the offer; or
  - (b) the Proper Officer (Assistant Director Law and Governance) has notified the Panel that no objection was received by him within that period from the Leader; or
  - (c) the Panel is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the Panel will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must

be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen to be very much an exceptional circumstance.

## 7. Example

A Cabinet Member objects to the appointment of a prospective Assistant Director on the grounds that he has a moustache. This may be true and, therefore, well-founded. However, facial hair has no relevance to the ability to perform the duties of the post. The objection, would, therefore, not be material and well-founded.

8. Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, by e-mail or by fax but in any event must be received by the recipient within the relevant period specified.

**Protocol for Dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer**

**A. Approval by Full Council.**

1. Any dismissal must be approved by the Full Council.
2. A special meeting of Full Council will be summoned by the Assistant Director Law and Governance, giving five clear working days notice, unless the matter can conveniently be dealt with at an ordinary meeting of the Full Council.
3. The Agenda for such meeting will contain an item seeking the dismissal of the Officer, and a summary report of the process followed by the Human Resources Committee together with a note of their decision and a report from the Human Resources Advisory Panel (made by the Independent Persons), recommending dismissal. These documents will be circulated to all Members of the Council at least five clear working days prior to the meeting of Full Council by the Assistant Director Law and Governance.
4. It is expected that failure to dismiss would occur only on an exceptional basis, based on objections which are material and well-founded. If dismissal is not granted, the Council shall indicate the reason(s) and the matter will be referred back to the Human Resources Committee for further consideration.

**B. Objection by Cabinet**

5. In addition the Human Resources Committee shall notify the Proper Officer (the Assistant Director Law and Governance) of the dismissal and any other particulars which the Committee considers relevant.
6. The Proper Officer shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Human Resources Committee.
7. The notice shall specify the grounds for dismissal and any other particulars relevant to the dismissal which the Committee has notified to the Proper Officer and the period of 24 hours from the time of dispatch for an objection to the dismissal to be made by the Leader on



behalf of any Cabinet Member.

8. Subject to Section A above, a dismissal may be made if either:-
  - (a) the Leader has, within the period specified above, notified the Human Resources Committee that neither he nor any other Member of the Cabinet has any objection to the dismissal; or
  - (b) the Proper Officer has notified the Human Resources Committee that no objection was received by him within that period from the Leader; or
  - (c) the Human Resources Committee is satisfied that any objection received from the Leader within that period is not material or is not well founded.
9. For the purposes of 8(c) above, the Human Resources Committee will consider any such objection from the Leader in a meeting of the Committee duly called by the Assistant Director Law and Governance for that purpose.
10. For the purposes of paragraph 8(c) above, an objection must to be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen as being very much an exceptional circumstance.

## **Protocol for Dismissal of Chief Officers**

**Note:** This protocol applies to those posts referred to in Section 3 above.

### **Objection by Cabinet**

1. The Human Resources Chief Officers Appointments Panel (HRCOAP) shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person whom the HRCOAP wishes to dismiss any other particulars which the Panel considers are relevant to the dismissal.
2. The Proper Officer shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the HRCOAP.
3. The notice shall specify the name of the person whom the Panel wishes to dismiss, any other particulars relevant to the dismissal which the HRCOAP has notified to the Proper Officer and the period of 48 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
4. A dismissal may be made if either:-
  - (a) the Leader has, within the period specified above, notified the HRCOAP that neither he nor any other Member of the Cabinet has any objection to the dismissal; or
  - (b) the Proper Officer has notified the HRCOAP that no objection was received by him within that period from the Leader; or
  - (c) the HRCOAP is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the HRCOAP will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At

the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen to be very much an exceptional circumstance.

## **Protocol for Dismissal of Heads of Service**

Note: This protocol applies to those posts referred to in Section 4(1(b)) above.

### **Objection by Cabinet**

1. The Human Resources Panel shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person whom it wishes to dismiss and any other particulars which the Panel considers are relevant to the dismissal.
2. The Proper Officer shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Panel.
3. The notice shall specify the name of the person whom the Panel wishes to dismiss, any other particulars relevant to the dismissal which the Panel has notified to the Proper Officer and the period of 48 hours from the time of dispatch for an objection to the dismissal to be made by the Leader on behalf of any Cabinet Member.
4. An offer of appointment may be made if either:-
  - (a) the Leader has, within the period specified above, notified the Panel that neither he nor any other Member of the Cabinet has any objection to the dismissal; or
  - (b) the Proper Officer has notified the Panel that no objection was received by him within that period from the Leader; or
  - (c) the Panel is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the Panel will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At

the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen to be very much an exceptional circumstance.

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## **Code of Conduct for Members and Co-opted Members**

### **Introduction**

1. This Code has been adopted by Darlington Borough Council in compliance with the requirements set out in Chapter 7 of the Localism Act 2011. This Code defines the standards of conduct which will be required of all Members and co-opted Members of the Council.
2. This Code of Conduct is based on the Local Government Association Model Councillor Code of Conduct, which was developed in 2020.
3. In addition to the Code of Conduct, the Council has adopted the seven Principles of Public Life (the Nolan Principles) and 9 principles of conduct developed by the LGA for members. Members will be expected to act in a manner that is consistent with the principles and the principles will be used to help in interpreting the Code. It is however only the Code of Conduct that is enforceable, rather than the Principles of Conduct. More information is set out below under the heading of General Principles.
4. Any person may make a written complaint to the Monitoring Officer that a Member or Co-opted Member has broken the Code. Details about how to complain and the way that complaints are dealt can be found on the Council's website [arrangements-for-dealing-with-members-complaints.pdf \(darlington.gov.uk\)](#)
5. It is the personal responsibility of each Member and Co-opted Member to make sure that she/he complies with the requirements of this Code. Advice on the requirements may be sought from the Authority's Monitoring Officer, or a personal legal adviser, however, ultimately it is a decision for the Member or Co-opted Member.
6. In this Code, words denoting any gender shall include all genders.
7. This Code shall be subject to any subsequent changes of law after adoption

### **Purpose of the Code of Conduct**

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

### **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles (Appendix A).

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- (a) I act with integrity and honesty;
- (b) I act lawfully;
- (c) I treat all persons fairly and with respect; and
- (d) I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- (a) I impartially exercise my responsibilities in the interests of the local community;
- (b) I do not improperly seek to confer an advantage, or disadvantage, on any person;
- (c) I avoid conflicts of interest;
- (d) I exercise reasonable care and diligence; and
- (e) I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

These principles will be used to help in better understanding and interpreting the Code. However only the specific provisions of conduct set out below are enforceable and not the principles themselves.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- (a) You misuse your position as a councillor;
- (b) Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;



The Code applies to all forms of communication and interaction, including:

- (a) At face-to-face meetings;
- (b) At online or telephone meetings;
- (c) In written communication;
- (d) In verbal communication;
- (e) In non-verbal communication;
- (f) In electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

### **Support and advice**

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

### **Standards of councillor conduct**

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

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the council**

**As a councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

**4. Confidentiality and access to information**

**As a councillor:**

**4.1 I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i. I have received the consent of a person authorised to give it;
  - ii. I am required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    1. reasonable and in the public interest; and
    2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    3. I have consulted the Monitoring Officer prior to its release.

**4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a councillor:**

#### **5.1 I do not bring my role or local authority into disrepute.**

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

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a councillor:**

#### **7.1 I do not misuse council resources.**

#### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- (a) Office support;

- (b) Stationery;
- (c) Equipment such as phones, and computers;
- (d) Transport;
- (e) Access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be a complainant, witness or involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

**As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might

arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose 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.

## **Appendix B Registering interests**

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interests**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it



### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –

- (a) Your own financial interest or well-being;
- (b) A financial interest or well-being of a relative or close associate; or
- (c) A financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**;

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - (a) To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - (b) A reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **Interests which do not prevent participation**

11. You can participate in a decision that relates to the functions of the Council in respect of:-
  - (a) Housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
  - (b) School meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (c) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the 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 (*subject to the paragraph below*).

### **Local Government Finance Act 1992**

12. You should note that under Section 106 the Local Government Finance Act 1992, that at any meeting considering the setting of council tax, if you are in arrears of Council Tax (2 months or more) you must make a declaration that you are in Council Tax arrears and you cannot vote on the setting of Council tax. You may commit a criminal offence if you fail comply.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

<p><b>Corporate tenancies</b></p>	<p>Any tenancy where (to the councillor's knowledge)—                  (a) the landlord is the council; and                  (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<p><b>Securities</b></p>	<p><i>Any beneficial interest in securities* of a body where—</i>                  (a) <i>that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</i>                  (b) <i>either—</i>                  (i) <i>the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</i>                  (ii) <i>if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</i></p>

\* director' includes a member of the committee of management of an industrial and provident society.

\*'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

You must register as an Other Registrable Interest:

- (a) Any unpaid directorships;
- (b) Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority;
- (c) Any body:
  - (i) Exercising functions of a public nature;
  - (ii) Directed to charitable purposes, or;
  - (iii) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

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# **DARLINGTON BOROUGH COUNCIL**

## **Anti-Bribery Policy and Procedure**

**June 2018**

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### **3 OTHER RELEVANT POLICIES**



## 1. **POLICY STATEMENT**

Bribery is a criminal offence. Darlington Borough Council (the Council) does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

### 1.1. **Objective of this Policy**

This policy provides a coherent and consistent framework to enable the Council members and employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable members and employees to identify and effectively report a potential breach.

The Council requires that all members and personnel, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

### 1.2. **Scope of this Policy**

This policy applies to all of the Council’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all service areas business units and corporate functions.

This policy covers all members (including independent members), personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, volunteers and consultants.

### 1.3. The Council's Commitment to Action

The Council commits to:

- setting out a clear anti-bribery policy and keeping it up to date;
- making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- training key employees so that they can recognise and avoid the use of bribery by themselves and others;
- encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
- rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- taking firm and vigorous action against any individual(s) involved in bribery;
- provide information to all employees to report breaches and suspected breaches of this policy;
- include appropriate clauses in contract documents to prevent bribery.

### 1.4. What is Bribery?

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

### 1.5. The Bribery Act

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7)

The Bribery Act 2010

([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1)) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. This is what is known as a 'strict liability' offence. This means that there is no need to prove negligence or management complicity. An organisation will have a defence to

this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

#### **1.6. Is the Council a ‘Commercial Organisation’?**

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” There are circumstances in which the Council will be a commercial organisation for the purposes of section 7. This policy is intended to ensure that the Council has in place the necessary procedures to act as a defence to a section 7 offence.

## **2. ANTI BRIBERY PROCEDURES**

### **2.1. The Council’s Procedures Cover Six Principles:**

#### **Proportionality**

The Council has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced and to the nature, scale and complexity of activities undertaken. They are also clear, practical, accessible, effectively implemented and enforced.

#### **Top level commitment**

Cabinet and the Chief Officers are committed to preventing bribery by persons associated with the Council. They foster a culture within the organisation in which bribery is never acceptable.

#### **Risk Assessment**

The nature and extent of the Council’s exposure to potential external and internal risks of bribery on its behalf of persons associated with it is periodically assessed. This includes financial risks but also other risks such as reputational damage.

#### **Due diligence**

The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

#### **Communication (including training)**

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

## **Monitoring and review**

Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.

### **2.2. Penalties**

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- on conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both;
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both;

The Council, if convicted under sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under section 7, is liable to an unlimited fine.

### **2.3. Bribery is not Tolerated**

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- engage in activity in breach of this policy.

### **2.4. Facilitation Payments**

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

### **2.5. Gifts and Hospitality**

This policy is not meant to change the requirements of the Council's approach to gifts and hospitality as set out within the Code of Conduct for Members and Co-opted Members and the Code of Conduct for Employees. These make it

clear that all offers of gifts and hospitality of a value of £25 or over should be registered whether they are accepted or not.

## **2.6. Public Contracts and Failure to Prevent Bribery**

Under the Public Contracts Regulations 2015 (which gives effect to European law in the UK), depending on the nature of any conviction for corruption or bribery an individual or company may face an automatic exclusion from participation in public contracts. For other offences such as the crime of failure to prevent bribery there is no automatic bar and the Council has the discretion to exclude persons and organisations convicted of this offence.

## **2.7. Your Responsibilities as a Member or Officer**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All members and staff are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy;
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, members and staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **2.8. Raising a Concern**

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every Council member or employee, agency staff, contractors, agents, volunteers and consultants to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Please refer to the Council's Whistleblowing Policy.

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

If you have any questions about these procedures, please contact:

Luke Swinhoe, Assistant Director, Law and Governance, on 01325 405490 or  
luke.swinhoe@darlington.gov.uk

Elizabeth Davison, Group Director of Operations on 01325 405830 or  
elizabeth.davison@darlington.gov.uk

### **3. OTHER RELEVANT POLICIES**

Other relevant policies can be found on the Council's website. They include:

Anti Fraud and Corruption Policy Statement

Anti Fraud and Corruption Strategy

Anti Money Laundering Policy

Whistleblowing Policy

Code of Conduct for Members and Co-opted Members

Code of Conduct for Employees

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<b>ECC5</b>	<b>Declaration of Relationship with Contractor</b>
<b>ECC6</b>	<b>Report of Offer of Gift</b>
<b>ECC7</b>	<b>Register of Interests for Senior Officers</b>

**Other Relevant Policies:**

**Whistleblowing Policy**  
**Anti-Bribery Policy and Procedure**



## **PURPOSE**

### **1. The purpose of having a Code of Conduct is to :-**

- make a clear statement about the standards of conduct expected of employees of Darlington Borough Council;
- ensure the highest standards of conduct by identifying corporate standards which sit alongside professional codes and guidelines;
- help all employees to act in a way which upholds the Council's standards and at the same time, protect them from criticism, misunderstanding or complaint; and
- help build trust between the Council and the people who come into contact with those working for it.

## **SCOPE**

### **2. This Code of Conduct applies to :-**

- All employees of the Council except teachers and those employed in schools under the control of Governing Bodies. Employees are as defined in section 230 of the Employment Rights Act 1996 or any subsequent legislation; and
  - Individuals providing services for the Council e.g. contractors, agencies, self-employed, agency workers and those working for the Council as part of partnerships with the Council.
3. Disregarding this Code will, in certain circumstances, result in disciplinary action being taken. A copy of this Code of Conduct can be found on the intranet. All employees will be obliged to undertake and pass the Academy 10 training module in respect of the Code of Conduct.

## **STANDARDS AND ATTITUDE**

4. All employees of the Council are expected to give the highest possible standard of service to the public, Councillors and fellow employees and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.
5. Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous. People's impression of the Council is strongly influenced by the views of the people who work for it. Whether or not you are aware of it, the comments you make will be accepted by others. You therefore need to consider carefully the affect of what you say.

6. All employees are expected to report to their manager or supervisor any perceived or anticipated impropriety, breach of procedure or policy of the Council.
7. In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.
8. There are a number of principles that exemplify the standards that are required. They are set out below. A number of these aspects are dealt with in more detail within this Code.

## THE PRINCIPLES

The Council's Code of Conduct embraces the seven principles of public life which were drawn up by the Nolan Committee and are endorsed by Parliament.

The seven principles are:

Selflessness – Acting solely in terms of the public interest

Integrity – Avoiding placing yourself under any obligation to people or organisations that might try inappropriately to influence you in your work. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and relationships as detailed in the Code of Conduct.

Objectivity – Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability – Be accountable to the public for your decisions and actions and submit yourself to scrutiny necessary to ensure this.

Openness - being as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty – Act with honesty, and be truthful.

Leadership – Exhibit these principles in your own behaviour. Actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

9. The Council recognises the importance of an open, transparent culture with clear communication and public accountability. It is the Council's aim to be as open as possible about all its activities. The law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. Different rules apply in different situations. The Freedom of Information Act requires for example disclosure of information in response to written requests in circumstances set out in the Act, and the Data Protection Act requires that the Council complies with statute in relation to the handling and processing of personal data. If you are in any doubt as to whether you can

release any particular information, always check with your manager first. Where appropriate you should seek advice from relevant officers within the Council including Information Governance Officers and Legal Services.

10. The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. You should not knowingly pass information on to others who might use it in such a way. If you believe that information should be disclosed in the public interest you should refer to the Council's Whistleblowing Policy before doing so. Failure to do so may result in disciplinary action being taken.
11. You should not communicate confidential information or documents to others who do not have a legitimate right to know. Furthermore, information which is stored whether on computer systems or manually must only be disclosed in accordance with the requirements of the data protection law. During the course of duties many staff regularly deal with private and confidential information relating to 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 Council information systems. You should read and follow the Council's Data Protection and information Security policies and any service specific procedures that have been prepared. Deliberate or negligent breaches of confidentiality and the terms of these policies are deemed a serious disciplinary matter.
12. Information given in the course of your duties should be accurate and fair and never designed to mislead.
13. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or allowed by law.
14. Only employees authorised by their Director to do so may talk to the Media or otherwise make public statements on behalf of their directorate. An employee contacted by the Press should refer the matter to the Council's Communications Team who will deal with it as appropriate.

## **WHISTLEBLOWING POLICY**

15. Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

16. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
17. In order to ensure that this can happen the Council has developed a Whistleblowing Policy which can be found on the intranet or a copy can be requested from HR.
18. The Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
19. The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
20. The policy is in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments. You are responsible for making service users aware of the existence of these procedures.
21. The policy has been discussed with the relevant trade unions and professional organisations and has their support.

## **PERSONAL APPEARANCE**

22. In your appearance as well as in your behaviour, you should regard yourself as an ambassador for the Council and dress in clothing that is appropriate for your duties. Your Service may have a code of dress where it is important to project a favourable image of the 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.
23. If you are required to wear specific items of clothing, hairstyles or jewellery 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 Council.
24. The Council reserves the right to insist that you do not wear particular items of clothing or jewellery 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.
25. The Council will enforce these rules having regard to the differences for male, female and transgender employees.
26. As an employee of the 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.

## **POLITICAL NEUTRALITY**

27. Employees serve the Authority as a whole. It follows that you must serve all Councillors equally and ensure that the individual rights of all Councillors are respected.
28. From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.
29. Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work and you must at all times perform your duties in an objective manner.

## **RELATIONSHIPS**

30. Darlington Borough Council is firmly committed to equal opportunities and believes that every employee has the right to work in a safe environment without the fear of discrimination, harassment or abuse. This is reinforced in the Council's Organisational Development Strategy. As such, the Council will not tolerate or condone harassment or bullying in any form. The Council has established a Dignity and Respect at Work Policy which addresses these issues in more detail. This policy aims to prohibit harassment and bullying within the Council and covers both employees and elected Members. Details of the policy are available on the Council's Intranet.

## **APPOINTMENT OF STAFF**

31. It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments you should do everything possible to ensure that these are made on the basis of merit and in accordance with the Council's Code of Practice on Recruitment and Selection which can be found on the intranet.
32. In order to avoid any possible accusation of bias, you must not become involved in any appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee if you are a relative of an applicant, or have a close personal relationship with him or her, or are a close personal associate of him or her nor where you have the opportunity to benefit, directly or indirectly, from an appointment without the express prior approval of their employing Director.
33. In paragraph 32 (above) the term 'relative' means a spouse, partner, parent, parent-in-law, son, daughter, step-son, stepdaughter, child of a partner, brother, sister grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of an existing Councillor, Senior Officer, Head teacher or School Governor of a Darlington Borough Council school or the partner of such persons.
34. In this paragraph 32 (above) the term a 'close personal relationship' can be described as someone who is well known to you and for whom you have feelings of liking, affection and loyalty. It is a closer relationship than simply being an acquaintance. For example, if you are both member of the same charity, club or

association, this is not likely, on its own, to mean that you have a close personal relationship.

35. In paragraph 32 (above) the term 'close personal associate' would include a person not employed by the Council with whom you have a close business connection.
36. In paragraph 33 (above) the term 'partner' means a member of a couple who live together.
37. Senior Officers (which term comprises any Director, including the Chief Executive, Assistant Director or Head of Service) must disclose to the Group Director of Operations any relationship known to exist between them and any person they know as a candidate for an appointment with the Council.
38. 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.

## RELATIONSHIPS AT WORK

39. 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.
40. If a person with whom you have a close personal relationship is employed by the Council, you should take special care to conduct yourself in such a manner that the relationship does not interfere with service delivery or 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.
41. 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. Relationships and/or their breakdown must not interfere with working arrangements and employees must ensure that work is not affected. **Unless there is a genuine work related issue the Council will not allow its policies and procedures to be used by employees whose private relationship with each other has broken down.**

## **COUNCILLORS**

42. Mutual respect between employees and Councillors is essential for good local government. Some employees need to work closely with Councillors. 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**

43. Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority. This may involve dealing with troubled, angry and frustrated customers, although employees are entitled not to be expected to place their personal health, safety and welfare at risk.

## **CONTRACTORS**

44. All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your Head of Service and the Head of Procurement at the earliest opportunity.
45. Orders and contracts must be awarded in accordance with the Contracts Procedure Rules and no special favour should be shown to businesses run by, for example, friends, partners or relatives.
46. 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, you should declare that relationship to your Head of Service and make the Head of Procurement aware of this as well.
47. You must not use, in a private or domestic capacity, any contractor with whom you have had or are having an official relationship, without first obtaining the permission of your Head of Service and the Head of Procurement.
48. You must not use, in a private or domestic capacity, your role with the Council in order to obtain a discount from any business or contractor (whether or not the Council has an official relationship with that business or contractor) without first obtaining the permission of your Head of Service.

## **EMPLOYMENT MATTERS**

49. If you apply for promotion or are seeking another post in the Council, you must not approach any Darlington Borough Councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager, supervisor and the Group Director of Operations and not with Councillors.

50. You must not be involved in or attempt to influence any decision relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or with whom you have a close personal relationship or in any situation where you could benefit from that situation.
51. The information contained in Disclosure and Barring Service disclosures is considered highly confidential and the Council will restrict access to those who are entitled to see it as part of their duties in line with its DBS policy, a copy of which can be found on the intranet.

## **OUTSIDE COMMITMENTS**

52. The Council recognises that employees are entitled to their private lives. In general, an employee's choices and action outside of work are not the Council's concern. However in order to protect both the employee and the Council there are exceptions to this.

## **CONDUCT**

53. Where in or outside work, employees must not conduct themselves in any way that creates doubt as to their suitability for their post or brings the Council into disrepute. Where conduct, whether inside or outside of work does create doubt as to an employee's suitability for their post or brings the Council into disrepute, this will be dealt with accordingly under the Council's Disciplinary Policy.

## **ADDITIONAL WORK**

54. Employees may be able to take on outside employment/work/business responsibilities in addition to their existing contract of employment, providing it does not conflict with the performance of their duties in the role for which they are employed.
55. Additional work includes:
  - (a) paid employment,
  - (b) self-employment,
  - (c) being a named partner in a business or a sole-trader
  - (d) being named as an Officer of a company (e.g. Director or Secretary)
  - (e) voluntary work involving driving duties if you are employed by the Council as an LGV/PSV driver (because of driving hour regulations)
56. In order to assess whether or not there might be a conflict, employees are required to obtain the consent of their Assistant Director before taking on any outside employment/duties. If you fall into this category, and want to seek the Council's agreement, you should complete Form ECC1 and submit it to your Assistant Director. The Council will not unreasonably stop employees from undertaking additional employment/duties/work, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.



57. Once you have completed Form ECC1 and have passed this to your Assistant Director, he/she will then discuss this with the Assistant Director, Law and Governance and also the designated HR Manager for your area. A central register of all ECC1 Forms will be held by the Assistant Director, Law and Governance.
58. Should you fail to complete Form ECC1 and it later transpires that you have failed to declare additional work/duties/employment which you have undertaken, you may be referred for action under the Council's Disciplinary Policy.
59. Touting for or on behalf of any secondary employment in working hours is an improper use of the Council's time and will be dealt with accordingly.
60. An employee who wishes to take on additional work/duties must ensure that :-
  - (a) the additional hours worked do not contravene the Working Time Regulations or otherwise give the Council cause for concern about health and safety at work;
  - (b) the outside work does not place the employee in a position where their duties and private interests conflict;
  - (c) the outside work does not damage, or potentially damage, public confidence in the Council's conduct or business;
  - (d) the outside work does not involve the employee being in direct competition with the Council for work/contracts;
  - (e) any potential employer is aware of their employment with the Council;
  - (f) you do not wear Council uniform whilst undertaking the additional work/duties;
  - (g) you do not use Council property when undertaking the additional work/duties (e.g. Council owned computers, vans, tools, photocopiers); and
  - (h) you do not use the Council's email system when undertaking the additional work/duties.
  - (i) you do not undertake private or personal work, paid or unpaid, of any description in working hours or in the office.

## **VOLUNTARY WORK**

61. The Council recognises the invaluable and positive role that volunteers play in supporting our services and communities and therefore promotes the work volunteers do. Generally permission to volunteer is not required. However, if you are employed by the Council as an LGV/PSV driver, because of driving hour regulations, you must seek permission to do voluntary work which involves driving duties by complete and submitting Form ECC1 to your Assistant Director.

## **REFUSAL OF A REQUEST TO TAKE ON ADDITIONAL WORK**

62. If an employee has their request to take on additional work refused and wishes to challenge this, they should speak to their manager or consider raising a grievance under the Council's grievance procedure.

## **BOOKS, TRAINING MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

63. If you write a book for payment on subjects relating to your work for the Council you must seek the permission of the Council through your Assistant Director using Form ECC2.
64. Fees for giving lectures or writing articles/books may only be retained by employees where these activities are not integral to their employment or position with the Council and they are conducted in the employee's own time.
65. The Council retains intellectual property rights for work undertaken by employees. Research, reports, designs, drawings, software and other developments or similar work, when created in the course of an employee's normal duties, remain the property of the Council. These should not be removed from Council premises or passed on to third parties by any employee acting in a private capacity without the express consent of the Assistant Director for the area.

## **PATENTS AND INVENTIONS**

66. Any matter, or thing capable of being patented under the Patents Act 1977, made developed or discovered by an employee, either alone or with others, whilst in the performance of their duties should be disclosed to the Council through the appropriate Assistant Director and, subject to the provisions of the Patents Act, it will belong to and be the absolute property of the Council.

## **COMPUTER USE**

67. The council wants employees to use computers to the full and to feel competent and comfortable about doing so. However, it is essential that computers are used appropriately. Any reference to computers should be taken to mean all computer equipment and any associated technology (e.g. emails).

## **MISUSE OF COMPUTERS AND OTHER TECHNOLOGY**

68. The misuse of computers is a serious matter and may result in employees being subject to disciplinary and, where appropriate, legal action.
69. A number of guidance documents exist in relation to the use of the Council's computers and information technology. These include the Computer User's Guidance, Internet and Email Usage and Security Guidance, the Council's Acceptable Use Policy and the Social Media Policy. Employees must be familiar with, and abide by the Council's Policies on computer use.
70. Private use of Council facilities, such as computers (including use of the Internet), stationery and fax machines, is governed by these documents. Personal use of the office telephone is permitted within reason, provided that calls are properly logged and charges paid back to the Council. Employees should not arrange to

receive correspondence (this includes parcels), telephone calls, emails and fax messages in the office related to outside work or private interests. Where an employee is provided with a Council-owned mobile phone all personal calls, text messages and data usage must be paid for. Misuse of Council facilities such as mobile phones, office telephones and photocopiers may result in disciplinary action being taken.

71. An employee who is aware or suspects that abuse of computers, email the internet, the intranet or other technology is taking place is under a duty to report this immediately under the Council's Whistleblowing Policy.
72. The Council will monitor the use of computers etc without notice. A record of any sites accessed by staff is automatically stored on the system and may be examined later if misuse is suspected.

### **INTERNET AND SOCIAL NETWORKING**

73. Internet access for personal use should be in line with the Council's policy on Employees Guide to Information Security 2017 and must not affect an employee's performance and productivity at work.

### **PERSONAL INTERESTS**

74. Employees may have a variety of personal interests, which may from time to time impact on their role for the Council. To protect the Council and the employee from any accusations of wrong doing the Council has in place a number of safeguards which demonstrate that these interest are not allowed to influence the way the Council conducts its business.
75. If you are at Assistant Director level or above, then you must complete a REGISTER of interests. The purpose of this register is to ensure that those who have responsibility for taking the majority of delegated decisions of the authority are required to meet similar standards required of elected members in relation to the registration and declaration of interests.
76. The officer register of interests will not be available for public inspection as this is personal information. The register will be available for certain officers within the authority to inspect where they need to do so as part of the duties for the Council. These are :-
  - (a) the Group Director of Operations;
  - (b) the Assistant Director, Law and Governance;
  - (c) the Audit and Risk Manager; and
  - (d) the relevant manager.

The information may also need to be disclosed to those involved in hearing any disciplinary matter or in accordance with the Council's other legal obligations to disclose information to the external auditors, the Local Government Ombudsman or in the course of court proceedings.

77. The form and guidance for completion is available in Form ECC7.
78. Whatever your role within the organization, you must DECLARE to your Assistant Director on Form ECC3 any financial or non-financial interests which could bring about conflict with the Council's interests.
79. If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or supervisor so that a decision can be made as to how best to proceed.
80. You must not make, or become involved with, any official, professional, decisions about matters in which you have a personal interest.

## **INTEREST IN CONTRACTS**

81. Section 117 of the Local Government Act 1972 requires you to make a formal declaration about contracts or proposed contracts with the Council in which you have a pecuniary interest. Such declarations should be made on Form ECC4 and sent to the Assistant Director, Law and Governance. It is a criminal offence to fail to comply with this provision, which is set out in full at Annex B to this Code. Pecuniary interests are considered at Section 95 of the Local Government Act 1972, See Annex C to this Code.

## **GIFTS AND HOSPITALITY**

82. A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence.

## **GIFTS GENERALLY**

83. Casual gifts offered to employees by contractors, organisations, firms or individuals such as calendars, diaries, mouse mats, pens, and other small gifts need not be declared. The general rule is that a gift below the value of £25 does not need to be declared. However it will not be appropriate to accept a gift below that value if it is more than minimal and may be perceived as an inducement. Where a number of small gifts over a period of time amount to more than £25 collectively these should be declared.
84. With the exceptions listed below, you should decline any personal gift offered to you, or to a member of your family, with a value of £25 or over by any person or organisation having dealings with the Council.
85. Any such offer should be reported to your Manager on Form ECC6 and should be recorded in a register, which is kept for this purpose. Managers should report any such offer to the Assistant Director, Law and Governance, who will record it in a similar register. He/she will report any such offer received to the Chief Executive, who will record it.
86. When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported

immediately to your Manager, who in turn will inform the Assistant Director, Law and Governance.

87. A checklist is provided at Annex A which you should use to help you decide whether or not it is appropriate to accept a gift. If you are in doubt advice can be sought from the Assistant Director, Law and Governance.

## **GIFTS FROM SERVICE USERS AND CLIENTS**

88. There are sometimes problems encountered by employees who have a 'caring' role, or provide direct personal service to vulnerable people.
89. It is not unusual for residents of residential care homes, or for people receiving support at home from Council employees, or their relatives, to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their will.
90. It is most important in such situations that employees are protected from any suggestion of improper motives or conduct. This is, however, an area which needs to be handled with great tact and sensitivity if needless offence to the individual making the offer is to be avoided, with a proper explanation given as to the reason why. Where it has not been possible to return a gift, this must be reported to your manager who will give you further guidance.
91. If you are aware that you have been or may be made a beneficiary of an individual's will, you should immediately report this to your manager or supervisor. A manager will then visit the client to discuss the proposed bequest. The manager will seek to deter the individual from making the bequest, and ensure that if a bequest is given that it represents the genuine wishes of the individual who has not been subject of any improper influence. Following the visit, the manager will notify your Assistant Director, who will discuss the matter with you and determine what action to take.
92. In some cases an employee might not know that he or she is a beneficiary until after the death of the client concerned. As soon as an employee is made aware of such a bequest, he or she should notify their Assistant Director who will advise as to whether the gift should be accepted.

## **HOSPITALITY**

93. Offers of hospitality are a normal part of the courtesies of business life but in the public sector it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence. You should only accept offers of hospitality if there is a genuine need to impart information or represent the 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 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, Assistant Director, Director or Chief Executive.
94. Hospitality is sometimes offered to representatives of the Council in an official or formal capacity.

95. If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers etc. who may stand to benefit from the goodwill of the Council. If you decide to accept hospitality it should be on the basis that there will be a clear benefit to the Council through e.g. networking and building contacts, if there is no or limited benefit to the Council you should not attend. If you suspect that the value of the hospitality is over £25, you should consider making a proportionate donation to charity or sharing the cost of the event personally. You should resist additional gifts associated with an event such as free travel, or gift bags and items.
96. You should also be careful about attending exhibitions, seminars or visiting manufacturers etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality. Training events with very low training content and free catering, drink or transport may also be hospitality.
97. In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.
98. Hospitality offered by charitable or social organisations, usually in connection with an invitation to speak to the body, can be accepted.
99. All offers of hospitality should be reported to your Assistant Director, or if you are a Chief Officer, to the Assistant Director, Law and Governance.

## **SPONSORSHIP – GIVING AND RECEIVING**

100. When an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
101. Where the Council wishes to sponsor an event or services, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full prior disclosure to their Assistant Director of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.
102. Employees should take advice from the Assistant Director, Law and Governance on the possible legal or procurement issues which may be associated with securing sponsorship.

## **CRIMINAL CONVICTIONS/LOSS OF LICENCE OR QUALIFICATION**

103. You must inform your manager immediately if you:

- (a) receive any criminal conviction, caution, or are held or released subject to bail, or placed under bond during, either within or outside of your normal working hours;
- (b) receive any driving convictions that result in the loss of your driving licence, if driving on Council business is part of your job role;
- (c) have engaged in behaviour that has resulted in loss of licence, affiliation, accreditation, qualification or professional membership that may impact on your ability to carry out the duties of your contracted role.

However, if your post is subject to a Disclosure and Barring Service (DBS) Check, as well as the above, you must also inform your manager immediately if you are subject to a criminal investigation. If you are unsure about whether your post requires a DBS check, please seek clarification from your manager. All information you provide in this regard will be dealt with in strict confidence.

## **PLANNING MATTERS**

104. All Officers submitting a planning application to the authority must inform the Assistant Director, Law and Governance and the Group Director of Services. The Assistant Director, Law and Governance will maintain a register of all such applications. The Group Director of Services shall ensure that these are dealt with without influence and where necessary decisions are referred to the Planning Applications Committee.

105. Further details about the conduct of planning matters are set out in the Council's Protocol for Dealing with Planning Matters which is in Part 4 of the Constitution.

## **EQUALITY**

106. The 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. All members of the local community, customers and other Council employees have a right to be treated with fairness and equity. You should become familiar with and observe all Council policies relating to equality issues in addition to the requirements of the law under the Equality Act 2010.

107. 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.

108. In the same way you are required to treat your colleagues, staff and members of the public fairly and with respect.

## **TENDER PROCEDURES**

109. Employees involved in the tendering process and dealing with contractors should be clear about the nature of the separation of client and contractor roles within the Authority. Senior Officers who have both a client and contractor responsibility must be aware of the need for accountability and openness. The relevant statutory rules appear in Annex B and C of this Code.
110. If you are part of a contractor or client unit or have other official relationships with contractors, you must exercise fairness and impartiality when dealing with all customers, other contractors and sub-contractors.
111. If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with a particular contractor, you must declare that relationship to your Assistant Director, using Form ECC5 (which should then be forwarded to the Assistant Director, Law and Governance).
112. If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person or organisation.
113. All employees must 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 any capacity.

## **CORRUPTION**

114. The Council takes a very firm stance against all forms of bribery and corruption and has adopted an Anti-Bribery Policy and Procedures which can be found on the intranet or a copy can be requested from HR.
115. Employees must be aware that bribing another person or receiving a bribe are serious criminal offences under the Bribery Act 2010. Penalties include fines and or imprisonment for up to 10 years
116. The offence of 'bribing another person' will be committed if you offer, promise or give financial or other advantage to another person with the aim of inducing or rewarding them perform an activity or function improperly. The activity or function could relate to an external business or commercial activity or any public function (for instance done in house or by another public sector body).
117. The offence of 'being bribed' will be committed if you request or agree to receive or accept any financial or other advantage in return for improperly performing or allowing the improper performance of an activity or function. The activity or function could be any public function or something you do during the course of your employment
118. Further details of the Bribery Act offences are set out in the Anti-Bribery Policy and Procedures.
119. For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential



treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Assistant Director.

## **FINANCIAL PROCEDURE RULES**

120. All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders of works, goods or services must follow the Council's Financial Procedure Rules. These can be found on the intranet.
121. They must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority.

## ANNEX A

### GIFTS AND HOSPITALITY

#### Checklist 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 or 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 the 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 contracts 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 Borough 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 of over £25 this should also be registered with a statement that the gift has been declined.

You should consider carefully whether to register gifts and offers of gifts below £25 having regard to the issues highlighted above. The relevant form is ECC6 below.

**PERSONAL INTERESTS**  
**LOCAL GOVERNMENT ACT 1972, SECTION 117**  
**(see paragraph 81 of the Code)**

1. If it comes to the knowledge of an Officer employed, whether under this Act or any other enactment, by a Local Authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an Officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a Member of the Authority.

2. An Officer of a Local Authority shall not, under colour of his office or employment, accept any fee or reward other than his proper remuneration.
3. Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding (level 4 on the standard scale).
4. References in this section to a Local Authority shall included references to a joint committee appointed under Part VI of this Act or any other enactment.

**PERSONAL INTERESTS  
LOCAL GOVERNMENT ACT 1972, SECTION 95  
(see paragraph 81 of the Code)**

1. For the purposes of Section 94 above a person shall be treated, subject to the following provisions of this section and to Section 97 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if :-
  - (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
  - (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration
2. Sub-section (1) above, does not apply to membership of or employment under any public body, and a member of a company or other body shall not be reason only of his membership be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.
3. In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of section 94 above to be also an interest of the other.

**EMPLOYEES CODE OF CONDUCT  
APPLICATION FOR APPROVAL OF OUTSIDE EMPLOYMENT/WORK**

Name			
Department/Section			
Job Title			
Grade			
Nature of Outside Employment/work sought			
Name and Address of Proposed Outside Employment/work			
Is the post paid or unpaid?			
Does this employment/work, in your view, conflict with or is detrimental to the interests of the Council or would it weaken public confidence in the conduct of the Council's business?			
<b>I agree to abide by statutory guidelines on working hours and ensure I follow all HMRC guidelines on Tax and NI. In addition I will not conduct my outside interests during Council time and use any Council materials or equipment.</b>			
Signature		Date	

**Once complete this form should be discussed and forwarded to your Line Manager**

Line Manager Name			
Line Manager Comments/ Recommendation			
Line Manager Signature		Date	

**Once complete this form should be forwarded to your Assistant Director**

AD Comments			
Approved/Declined			
Signature		Date	

**Once complete, this form should be forwarded to the Human Resource Division for the employee's personal file and to the Assistant Director, Law and Governance**

**EMPLOYEE CODE OF CONDUCT  
APPLICATION FOR APPROVAL TO WRITING A BOOK**

Name			
Department/Section			
Job Title			
Grade			
Name of Publication in respect of which approval sought			
Does the book cover subjects relating to your work for the Council and, if so, in what way			
Will payments be received for the Book			
Does this employment, in your view, conflict with or is detrimental to the interests of the Council or would it weaken public confidence in the conduct of the Council's business			
Signature		Date	

**Once complete, this form should be forwarded to your line Manager**

Line Manager Name			
Line Manager Comments/ Recommendation			
Line Manager Signature		Date	

**Once complete, this form should be forwarded to your Assistant Director**

AD Comments			
Approved/Declined			
Signature		Date	

**Once complete, this form should be forwarded to the Human Resource Division for the employee's personal file.**

**EMPLOYEES CODE OF CONDUCT  
DECLARATION OF PERSONAL INTERESTS**

Name			
Department/Section			
Job Title			
Grade			
Nature of Interest			
Your role in any relevant business of the Council			
Name and Address of Interest where applicable			
Does this interest, in your view, conflict with or is detrimental to the interests of the Council or would it weaken public confidence in the conduct of the Council's business?			
Signature		Date	

**Once complete this form should be discussed and forwarded to your Line Manager**

Line Manager Name			
Line Manager Comments/Recommendation			
Line Manager Signature		Date	

**Once complete this form should be forwarded to the Assistant Director Law and Governance**

AD LG Comments			
AD LG Signature		Date	

**Once complete, this form should be filed in the Central Record of Register of Personal Interests**



**EMPLOYEES CODE OF CONDUCT**

**NOTICE OF PECUNIARY INTEREST IN CONTRACT OR PROPOSED CONTRACT**

**UNDER SECTION 117 LOCAL GOVERNMENT ACT 1972**

Name			
Department			
Job Title			
Grade			
Nature of Pecuniary Interest			
Details of Contract or Proposed contract with the Council			
<b>I make this declaration in accordance with Section 117 of the Local Government Act 1972</b>			
Signature		Date	

**Once complete, this form should be forwarded to your line manager**

Line Manager Name			
Line Manager Comments			
Line Manager Signature		Date	

**Once complete this form should be forwarded to the Assistant Director Law and Governance**

AD LG Comments			
Signature		Date	

**Once complete, this form should be filed in the Central Record of Register of Personal Interests**

**EMPLOYEES CODE OF CONDUCT**

**DECLARATION OF RELATIONSHIP WITH CONTRACTOR**

Name			
Department/Section			
Job Title			
Grade			
Nature of Relationship with Contractor			
Name and Address of Contractor			
Is this a current relationship?			
If not, when did the relationship end?			
Signature		Date	

**Once complete this form should be discussed and forwarded to your Line Manager**

Line Manager Name			
Line Manager Comments			
Signature		Date	

**Once complete this form should be forwarded to the Assistant Director Law and Governance**

AD LG Comments			
Signature		Date	

**Once complete, this form should be filed in the Central Record of Register of Personal Interests**

ECC6

**EMPLOYEES CODE OF CONDUCT**

**REPORT OF OFFER OF GIFT/HOSPITALITY**

Name			
Department/Section			
Job Title			
Grade			
Details of Gift Hospitality Offered			
Date Offer received			
Approximate value of offer (if known)			
Offer Accepted/Declined			
Signature		Date	

**Once complete this form should be discussed and forwarded to your Line Manager**

Line Manager Name			
Line Manager Comments			
Line Manager Signature		Date	

**Once complete this form should be forwarded to the Assistant Director Law and Governance**

AD LG Comments			
Signature		Date	

**Once complete, this form should be forwarded to the relevant PA Manager for inclusion in a public register.**

Date received by PA Manager	
Date entered in Register	
PA Manager Name	

## EMPLOYEES CODE OF CONDUCT

### Register of Interest (Assistant Director or above)

<b>Name</b>		<b>Position</b>	
<b>Department</b>			
<b>Signature</b>		<b>Date</b>	

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	<b>Guidance</b>	<b>Interest (please write NONE if you have no relevant interests)</b>
Employer	Please indicate the name of the employer of your spouse or partner, or anyone else who lives with you who makes a significant contribution to the household income (it is not necessary to register temporary, summer or part time job of a child of the household).	
Land interest	Please provide details sufficient to describe the location of any land in which you have an interest, whether it is ownership, leasehold, a tenancy or license. If you have any rights over land you should register the address or location of that land.	
Directorships, shareholding and Company Interests	In relation to any company which is based in or may operate in Darlington, directorships, significant shareholding (i.e. more than 10,000 of the nominal share value) and any position of management or control in a company. This would include a position as Company Secretary or Treasurer	

Membership of Bodies	<p>You need only register a position of management or control in a body.</p> <p>You need only register interests in bodies which are:</p> <p>A. Charities or directed to charitable purposes</p> <p>B Bodies designed to influence public opinion – these include campaign groups. You do not need to register membership of a trade union.</p> <p>C. Bodies carrying out functions of a public nature: This is wide ranging and will include bodies that you are appointed to by the Council. You need not register membership of Partnerships (where you are there for the Council), but should include trusteeships, governing body membership and membership of a parish council (in Darlington).</p> <p>D. Membership of secret societies. You do not need to register membership of sports</p>	
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This Register will be open to inspection by:  
Group Director of Operations  
Assistant Director Law and Governance  
Audit and Risk Manager  
Relevant Line Manager

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# **DARLINGTON BOROUGH COUNCIL**

## **Whistleblowing Policy**

**June 2018**

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## **WHISTLEBLOWING POLICY**

### **INTRODUCTION**

1. Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
3. This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
4. This procedure is in addition to, for example, the Council's internal grievance and other personnel procedures as well as the corporate complaints procedure and other statutory reporting procedures. Where other procedures are activated simultaneously, an agreement will be reached with the complainant about how they fit with agreed processes for each and whether or not information can be shared to enable each process to do its job.
5. This policy has been discussed with the relevant trade unions and professional organisations and has their support.
6. This policy makes it clear that you can voice your concerns without fear of victimisation, discrimination or disadvantage. This policy is intended to encourage and enable employees and others to raise serious concerns within the Council rather than overlooking a problem or having to 'blow the whistle' outside. It is the commitment of the Chief Executive and the Council that the Borough Council should be an organisation which has a culture of improvement and openness, and not control and blame.

### **AIMS AND SCOPE OF THIS POLICY**

7. This policy aims to :-
  - (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
  - (b) provide avenues for you to raise those concerns and receive feedback on any action taken;
  - (c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
  - (d) reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

8. There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Policy is intended to cover major concerns that fall outside the scope of other procedures. These include :-
  - (a) Conduct, which is an offence or a breach of law.
  - (b) Disclosures related to miscarriage of justice.
  - (c) Health and safety risks, including risks to the public as well as other employees.
  - (d) Damage to the environment.
  - (e) The unauthorised use of public funds.
  - (f) Possible fraud and corruption.
  - (g) Sexual or physical abuse of clients.
  - (h) Other unethical conduct.
9. Thus, any serious concerns that you have about any aspect of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under this Policy. This may be about something that :-
  - (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
  - (b) is against the Council's Procedure Rules and policies;
  - (c) falls below established standards of practice; or
  - (d) amounts to improper conduct;
  - (e) threatens the reputation and standing of the Council
10. You do not have to refer to this Policy to have an issue or complaint dealt with under the Policy.
11. This Policy applies to all:
  - (a) employees of the Council;
  - (b) employees of contractors working for the Council, for example, agency staff, builders, etc;
  - (c) employees of suppliers;
  - (d) those providing services under a contract or other agreement with the Council in their own premises, for example care homes, and
  - (e) voluntary workers working with the Council

## **SAFEGUARDS**

### **YOUR LEGAL RIGHTS**

12. This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in the public interest.
13. The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.
14. Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into

the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

## **HARASSMENT OR VICTIMISATION**

15. The Council is committed to good practice and high standards and wants to be supportive of employees.
16. The Council recognises that the decision to report a concern can be a difficult one to make. If you reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
17. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern with a reasonable belief and in the public interest. .
18. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

## **CONFIDENTIALITY**

19. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness if effective action is to be taken to tackle something which is wrong. You should make clear when you raise the matter whether you wish the matter to be kept confidential. It means you should not be afraid of giving your name when you want to make a complaint.

## **ANONYMOUS ALLEGATIONS**

20. This policy encourages you to put your name to your concern whenever possible.
21. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
22. In exercising this discretion the factors to be taken into account would include :-
  - (a) the seriousness of the issues raised;
  - (b) the credibility of the concern; and
  - (c) the likelihood of confirming the allegation from attributable sources.

## **FALSE OR UNPROVEN ALLEGATIONS**

23. If you express a concern with a reasonable belief in a potential breach, but it is not confirmed or cannot be proved by the investigation, the Council will recognise your concern and you have nothing to fear.
24. If, however, you make an allegation frivolously, maliciously or for personal gain, and the investigation confirms this, then disciplinary action may be taken against you.

## HOW TO RAISE A CONCERN

25. As a first step, you should normally raise concerns with your immediate manager or, if appropriate, a more senior manager. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. It will be for your and/ or your manager to deal with the issue or refer it to a Contact Officer for investigation under this policy. If you are external to the Council, or if you work for the Council but are dissatisfied with how your manager has dealt with your concern, then you should raise it with one of the Contact Officers in paragraph 29.
26. Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format :-
  - (a) the background and history of the concern (giving relevant dates);
  - (b) the reason why you are particularly concerned about the situation
  - (c) your connection to the matter and the names of the other persons who could assist in gathering information about it;
  - (d) Your reasons for needing confidentiality – are there particular persons who should not be told?
  - (e) The reason why the Council should become involved (where it is not directly connected to the matter)
27. The earlier you express the concern the easier it is to take action.
28. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
29. Obtain advice/guidance on how to pursue matters of concern may be obtained from the Contact Officers :-

Luke Swinhoe, Assistant Director, Law and Governance, on 01325 405490 or [luke.swinhoe@darlington.gov.uk](mailto:luke.swinhoe@darlington.gov.uk)

Elizabeth Davison, , Group Director of Operations on 01325 405830 or [elizabeth.davison@darlington.gov.uk](mailto:elizabeth.davison@darlington.gov.uk)

Ian Williams, Chief Executive, on 01326 405828 or [ian.williams@darlington.gov.uk](mailto:ian.williams@darlington.gov.uk)
30. The Contact Officer will be responsible for ensuring that you are kept informed of the progress of your complaint and for ensuring that you are aware as far as possible of the outcome and any action which results. If you are concerned about any aspect of your complaint once you have made it you should speak to the Contact Officer.
31. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
32. You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

## HOW THE COUNCIL WILL RESPOND

33. The Council will respond to your concerns. Do not forget that a Contact Officer or an investigator testing out your concerns is not the same as either accepting or rejecting them.
34. The person you contact will either deal with your issue, or nominate someone to do so who will not have been involved in the issue themselves and will know how to carry it forward. This may involve an interview to take a detailed account of your concerns and any evidence available.
35. Where appropriate, the matters raised may :-
  - (a) be investigated by management, internal audit or through the disciplinary process;
  - (b) be referred to the Police;
  - (c) be referred to the External Auditor; and
  - (d) form the subject of an independent inquiry.
36. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether a detailed investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
37. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
38. Within ten working days of a concern being raised, the person with whom you raised the concern will write to you :-
  - (a) acknowledging that the concern has been received;
  - (b) indicating how we propose to deal with the matter;
  - (c) giving an estimate of how long it will take to provide a final response;
  - (d) telling you whether any initial enquiries have been made;
  - (e) supplying you with information on staff support mechanisms; and
  - (f) telling you whether further investigations will take place and if not, why not; and will inform the Responsible Officer that an issue has been raised under this policy.
39. The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
40. Where any meeting is arranged, off site if you so wish, you can be accompanied by a Union or professional association representative or a friend.
41. The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence

in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure and where appropriate financial or other support.

42. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation or at least explain why this is not possible.

### **THE RESPONSIBLE OFFICER**

43. The Chief Executive has overall responsibility for the maintenance and operation of this policy. That Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council. They will also be responsible for ensuring that proper and timely progress is made dealing with any complaint and that the principles and requirements of this policy are met.

### **HOW THE MATTER CAN BE TAKEN FURTHER**

44. This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points :-

- (a) the external auditor;
- (b) your Trade Union;
- (c) your local Citizen Advice Bureau;
- (d) relevant professional bodies or regulatory organisations;
- (e) a relevant voluntary organisation;
- (f) the Police.

45. If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

### **CONTACTS FOR INDEPENDENT EXTERNAL ADVICE**

46. You may at any stage want to obtain help or advice from outside the Council and this can be obtained from a charitable organisation called 'Public Concern at Work'. They can be contacted through their website [www.pcaw.co.uk](http://www.pcaw.co.uk) or via their helpline at: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

## **Scheme of Indemnity for Members and Officers**

1. This Scheme of Indemnity ('the Scheme') shall take effect from the date on which it is approved by Council.

In this Scheme: -

'Employees' includes any person employed or formerly employed by Darlington Borough Council ('the Council') and any other person appointed by it to be an Officer of the Council; and

'Members' includes former or current elected and co-opted Members of the Council.

2. The Council hereby indemnifies its employees and Members against the costs, claims and expenses set out in paragraph 5 below of this Scheme, subject to the exceptions set out in paragraph 6 below of this Scheme, and on the terms set out in paragraph 7 below of this Scheme.
3. Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the employee or Member in question :-
  - (a) believed that the action, or failure to act, in question was within the powers of the Council; or
  - (b) where that action or failure to act comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true, and it was reasonable for that employee or Member to hold that belief at the time when he/she acted or failed to act.
4. The indemnity is also effective in relation to any act or omission which is subsequently found to be beyond the powers of the employee or Member in question but only to the extent that he/she reasonably believed that the act or omission in question was within his/her powers at the time at which he/she acted.

5. The costs, claims and expenses are those which arise from, or in connection with, any action of, or failure to act by, the employee or Member in question, which :-

(a) is, or has been, authorised by the Council; or

(b) forms part of, or arises from, any powers conferred, or duties placed, upon that employee or Member, as a consequence of any function being exercised by that employee or Member (whether or not when exercising that function he/she does so in his/her capacity as an employee or Member of the Council) :-

(i) at the request of, or with the approval of the Council; or

(ii) for the purposes of the Council.

6. The exceptions are that :-

(a) no indemnity is given in relation to any action by, or failure to act by, any employee or Member which :-

(i) constitutes a criminal offence; or

(ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that employee or Member.

(b) notwithstanding paragraph 6(a(i)) above, the indemnity is provided in relation to :-

(i) (subject to paragraph 7 below) the defence of any criminal proceedings brought against the employee or Member; and

(ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(c) no indemnity is provided in relation to the making by the employee or Member indemnified of any claim in relation to an alleged defamation of that Member or employee but the



indemnity is provided in relation to the defence by that Member or employee of any allegation of defamation made against him/her.

7. The terms of the indemnity are as follows : -

(a) where the indemnity has effect in relation to the defence of any criminal proceedings if the employee or Member in question is convicted of a criminal offence and that conviction is not overturned following any appeal, the indemnity will only extend to cover actual loss and expense incurred and evidenced by the employee or Member to the satisfaction of the Chief Executive or his nominee;

(b) the indemnity will not cover any loss or expense in respect of which the employee or Member can obtain reimbursement from any other source, including any policy of insurance whether taken out by the Council or the employee or Member by any other person.

8. This indemnity is without prejudice to the right of the Council to take disciplinary action against an employee in respect of any neglect, act, error or omission.

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# **Protocol for Councillors and Officers Dealing with Planning Matters**

## **The General Role and Conduct of Councillors and Officers**

1. It is important to appreciate that whilst both Councillors and Officers serve the public, Councillors are responsible to the Electorate while Officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors. A successful relationship between Councillors and Officers must be based on mutual trust and an understanding of each others' positions. This relationship must never be abused nor compromised.

## **Conduct of Councillors**

2. Councillors must act in accordance with the Council's Code of Conduct for Members and co-opted Members, which provides guidance and standards for Councillors. Breaches of the Code can be referred to the Monitoring Officer.
3. Whilst Councillors have a special duty to their Ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have a responsibility to decide what view to take. Councillors must therefore represent their constituents as a body and vote in the interests of the whole Borough. The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process and opposing views are often strongly held by those involved. Councillors should take account of those views but they should not favour any person, company, group or locality or put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serving on the Planning Applications Committee.
4. Councillors should be extremely cautious about accepting gifts and hospitality and must act in accordance with the Council's Code of Conduct.

## **Declaration and Registration of Interests**

5. The Council's Code of Conduct and relevant legislation must be followed scrupulously. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct should be avoided. It is for each Councillor to consider the application of the Council's Code of Conduct to his or her personal circumstances.
6. Members must also be aware of the need to register certain Financial and other interests in a register maintained by the Monitoring Officer (Assistant Director Law and Governance). It is good practice to review those entries on a six-monthly basis, although any changes should be notified by Councillors within 28 days. Councillors who have substantial property interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on the Planning Applications Committee.
7. The position with regard to pecuniary and non-pecuniary interests is contained within the Council's Code of Conduct. The guiding rule for Councillors must be that one should not use one's position to further a private or personal interest rather than the general public interest or give grounds for such suspicion. Such private interests could arise through family, friends, clubs, freemasons, trade unions and voluntary bodies.
8. Members are advised to refer to the Council's Code of Conduct for the circumstances in which they will need to declare a pecuniary interest and withdraw from the meeting during consideration of an item.

### **Examples of situations where an interest ought to be declared and the Member ought to leave the meeting**

- A planning application submitted by a local Golf Club of which a Councillor is a Member.
- An application for development on land adjacent to or in close proximity to a Councillor's own residence.
- An application lodged by a member of a Councillor's own family.
- An application for development by a Company for whom a member of a Councillor's family may work.

## Conduct of Officers

9. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute (RTPI) Code of Professional Conduct. All Officers dealing with planning matters must comply with the following :-
- (a) members of the RTPI shall take all reasonable steps to maintain their professional competence throughout their working lives and shall comply with the RTPI Council's continuing professional development regulations as amended from time to time;
  - (b) Officers who, as managers, have responsibility for other employees shall take all reasonable steps to encourage and support such other employees in the maintenance of professional competence and where those other employees are members of the RTPI they should seek to ensure compliance with the RTPI's continuing professional development regulations;
  - (c) in all their professional activities, Officers shall not discriminate for any reason, but particularly on the grounds of age, gender, sexual orientation, disability, race, ethnicity, religion or belief and shall seek to eliminate such discrimination by others and to promote equality of opportunity;
  - (d) Officers shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions and shall not knowingly enter into any contract or agreements which requires them to do so;
  - (e) Officers shall take all reasonable precautions to ensure that no conflict of duty arises between the interests of the Borough Council and the interests of themselves or any third party. Any such conflict shall be immediately reported and subsequently confirmed in writing to all the parties concerned;
  - (f) Officers shall not disclose or use to the advantage of themselves or the Borough Council information acquired in confidence in the course of their work;
  - (g) Officers shall decline any discounts, gifts or commissions offered by any third parties in connection with their work as professional planners; and

- (h) Officers shall take all reasonable steps to ensure that all town planning matters within the remit of the Borough Council are conducted in accordance with this Protocol, whoever undertakes the actual work.

### **Development Proposals submitted by Councillors and Officers, and Council Development**

10. Proposals to the Council as Local Planning Authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is vital that they are handled in a way which gives no grounds for accusations of favouritism.
11. Serving Councillors who prepare plans or generally act as agents for people pursuing a planning matter should play no part in the decision-making process for that proposal. Similarly, if they submit a proposal themselves, they should take no part in the processing of that application.
12. The Group Director of Services will endeavour to ensure that all such applications are identified and highlighted and will also take steps to ensure that the Councillor in question is aware of the contents of the Protocol and refer him or her to the Council's Code of Conduct.
13. The Council's Monitoring Officer should be informed of any such proposals.
14. Those proposals are to be reported to the Planning Applications Committee for consideration and not dealt with by Officers under delegated powers; the Monitoring Officer should be able to confirm in that report that the application has been processed normally and therefore must be given the opportunity to review the file.
15. Serving Officers should not prepare plans or generally act as agents for people pursuing a planning matter, with this Council. If they submit a proposal on their own behalf, they should take no part in the processing of that application.
16. Proposals for the Council's own development must be treated in the same way as those of private developers, in full accordance with the Council's Constitution and relevant Government advice contained in Circulars.

## **Lobbying of and by Councillors**

17. Lobbying is a perfectly proper part of the political process; those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Councillor or a Member of the Planning Applications Committee. That is quite understandable and part of the political/representative process. However, such lobbying can call into question the impartiality and integrity of a Councillor.
18. The Council's Code of Conduct requires, amongst other things that Members (and co-opted Members) of the Council must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority. Furthermore, a Member (or co-opted Member) must not conduct himself or herself in a manner which could reasonably be regarded as bringing his Office or Authority into disrepute.
19. Members and Officers should avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants and objectors. However, Officers may give an indication in pre-application discussions of the nature of their likely recommendation to Members, particularly in the light of the provisions of the Development Plan, albeit on a 'without prejudice' basis.
20. Members of the Planning Applications Committee must not express an opinion to a person lobbying, they must make it clear that they will only be in a position to take a decision after having heard all the relevant evidence and arguments at the Committee meeting. Councillors should not commit themselves one way or the other before hearing all the arguments and evidence. Councillors who are members of the Planning Applications Committee should not participate in lobbying for a particular outcome.
21. There should be no political group meetings prior to the Committee meeting to decide how Councillors should vote.
22. Councillors should avoid organising support for or opposition to a planning application and avoid lobbying other Councillors.
23. Councillors must not put pressure on Officers for a particular recommendation.

24. Councillors who are unsure whether an interest should be declared should seek the advice of the Monitoring Officer.

### **Pre-Application Discussions - Requirements of Officers**

25. It should be made clear at the outset that any such discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
26. Advice should be consistent and based upon the Development Plan and all other material considerations. All Officers taking part in such discussions should make clear whether or not they are the decision maker.
27. A written note must be made of all potentially contentious meetings. At least two Officers should attend such meetings (for corroborative purposes) and a follow-up letter is advisable when documentary material has been left with the Council. A note similarly should be taken of potentially contentious telephone discussions.
28. Advice must not be partial nor seen to be partial.

### **Pre-Application Member and Community Involvement**

29. Officers will offer to convene a meeting to allow potential developers to present their proposals for major developments, in initial draft format to Planning Applications Committee Members, Ward Councillors, interested local residents, and any relevant statutory consultees or organisations, allowing questions to be asked and feedback to be taken on board by the developers.
30. The main purpose of these meetings is to allow developers to hear important issues at an early stage that could be addressed as part of the planning application. These meetings are not a substitute for the formal planning process and to ensure that they do not fetter their involvement in subsequent decision-making. Members will be expected to essentially ask questions at these meetings rather than express a view.
31. The date, time and venue of the meetings will be publicised on the Council's website.



## **Officer Reports to Committee**

32. There will be pre-agenda meetings between the Planning Officers and the Chair and Vice-Chair of the Planning Applications Committee to discuss the Agenda for a forthcoming meeting.
33. All applications considered by the Planning Applications Committee should be the subject of full written reports from Officers incorporating firm recommendations. If the recommendations are contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated. If the views of Officers are finely balanced, the report should say so.
34. Officer reports to the Planning Applications Committee on delegated decisions should similarly set out the reasons for the decision.

## **Public Speaking at Planning Applications Committee**

35. Opportunities will be given for applicant and objectors and other interested parties, such as Parish Councils, to make presentations to the Planning Applications Committee.
36. In addition to local Ward Councillors and Parish Council representatives, normally only one speaker will be permitted to address the Committee on behalf of the applicant; three on behalf of supporters of the application; and three on behalf of the objectors. The time allowed for presentations is usually five minutes but this is at the discretion of the Chair of the Committee. This should be identical for all parties.
37. Each speaker will be given the opportunity to speak and then a right to reply following the presentation of the Officer's report. The applicant will have a right of reply after other speakers and the Officers will have the final comments.
38. Any documentary or visual evidence which a speaker wishes to use within their presentation to Committee must be provided to the Group Director of Services no later than five working days prior to the date of the Committee meeting.

## **Decisions Contrary to Officer Recommendation and/or the Development Plan**

39. Where elected Members decide to grant permission against the Officer's written recommendation, the Minutes should record their

reasons for doing so.

40. Where elected Members decide to refuse permission against the Officer's written recommendation, the Minutes should record their reasons for doing so.
41. Where elected Members decide to grant permission subject to conditions, the Minutes should record the reason for applying those conditions.
42. The Planning Officer should be given the opportunity to explain the implications of the contrary decision.
43. In the case of conditions which Councillors wish to add or amend, an Officer should be invited to draft such a condition and bring this back for approval at the subsequent meeting unless the drafting is straightforward and can be agreed at the initial meeting.

### **Committee Site Visits**

44. Site visits should be used only where the expected benefit is substantial. Examples of situations where the expected benefit would be substantial include :-
  - (a) cases of alleged overlooking;
  - (b) cases where a plan does not adequately indicate the relationship of the application proposal to neighbouring property;
  - (c) cases where the effect on amenity cannot readily be discerned from plans;
  - (d) cases where it is alleged that the amenity of a neighbour will be substantially affected;
  - (e) cases where Members are unable to visualise the site from plans and any other supporting material including photographs (particularly rural sites);
  - (f) cases where the proposal is particularly contentious; and
  - (g) cases where the content of a proposal is particularly relevant, such as in a conservation area.

45. A record of the reasons why a site visit is called should be maintained by the Assistant Director Law and Governance.
46. The site visit should consist of an inspection by the Committee, with Officer assistance, to explain the impact of a proposed development.
47. The applicant and objectors will be informed that a site visit is taking place and may be present but the Committee will not be able to hear representations. The site visit will enable the parties to make clear various aspects relating to the proposal to the Members of the Committee. Site visits must not be used as a forum for debate.
48. A further guidance note in relation to site visits is appended to this Protocol.

### **Regular Review of Decisions**

49. Councillors involved with planning decision making should visit a sample of implemented planning permissions to assess the quality of the decisions they have made. Such a review should be undertaken at least annually and include examples from a broad range of categories, such as major and minor development, permitted departures from the Development Plan, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case.
50. Cabinet should formally consider the review and decide whether it gives rise to the need to review any policies or practices.
51. No Member should be appointed to the Planning Applications Committee without having agreed to undertake a period of training in planning procedures as specified by the Council.

# **PLANNING COMMITTEE SITE VISIT – FURTHER GUIDANCE**

This guidance note has been prepared to advise members of the public and Members of the Council when a site visit may be an appropriate way of assisting the decision-making process.

## **Introduction**

Some planning applications are decided by the Planning Applications Committee, however, a significant majority of applications are determined outside of this process by either the Chair's delegation or using the powers delegated to the Group Director of Services.

In most cases, Members of the Planning Applications Committee reach a decision based on information provided in the Director's report about the planning application. This report takes into account the views of neighbours and all 'material' planning considerations. In addition, they will have the benefit of a presentation undertaken by the Planning Officer who will also make reference to a PowerPoint presentation containing relevant plans and photographs. Members will also have heard from agents, objectors and supporters. In the vast majority of cases, Members will have sufficient information to arrive at a decision.

Occasionally, the Planning Applications Committee resolve to defer consideration of an application to visit the site, before making a decision, having heard the Planning Officer present the relevant report. This note advises on the procedure that will be followed in those few occasions when such site visits take place.

An accompanied site visit will result in a delay in a planning application decision being taken. In view of this, they will not be undertaken when applicants, objectors or constituents request them without good planning reasons – see below.

National legislation requires Darlington Borough Council to not unduly delay decisions on planning applications and, dependent upon the application type, this delay may mean that the applicant is able to appeal against the Council not taking a decision if it does not do so in 8, 13 or 16 weeks. The decision on the planning application is then taken away from Darlington Borough Council and is decided by the Planning Inspectorate on behalf of the Secretary of State.

## **Why have a site visit?**

A site visit will only take place following a formal resolution of the Planning Applications Committee to do so. Individual Planning Applications Committee Members do sometimes visit sites on an unaccompanied basis at other times but these visits are not the subject of this protocol.

The purpose of an organised site visit is to enable Members of the Planning Applications Committee to understand more fully:-

- the details of a site where development is planned;
- the details of the surrounding area; and
- issues raised by residents and others about the plans

Usually, the above information will be available from the Committee report, the photographs and maps and the presentation as indicated above.

No decision on the related application will be taken at an accompanied site visit. Nor is it the purpose of the accompanied site visit to debate, at the site, the merits of the development; either between Members or with local residents or with the applicant or their agent. Debate about the application will only take place at the time when it is again in front of the Planning Applications Committee for formal consideration.

If the accompanied site visit gives rise to excessive lobbying or demonstrations, the Chair of the Planning Applications Committee may cancel the visit and arrange another in private.

## **Arranging Site Visits**

All Members of the Planning Applications Committee will be invited to attend the site visit, as will local Ward Councillors, should they not be Members of the Planning Applications Committee.

Where a proposal is considered, by the Planning Officer, to have a significant impact on an adjoining Ward, adjoining Ward Councillors will also be invited to attend. Occasionally, Officers of other services, such as Highways or Environmental Health, will be invited (by the Planning Officer) to attend a site visit to clarify factual matters.

Applicants and/or their agent will be advised of the intention to undertake a site visit and a copy of this protocol will be provided to them as well as all other attendees.

Permission will be sought, before the accompanied site visit, to enter private land where this will assist Members in understanding the

development, the site and its relationship to the surrounding area. In the unlikely event that the landowner will not give permission, the site will be viewed from the public highway or from other adjacent land with the owner's permission.

### **Procedure at Site Visits**

- Hospitality or assistance with travel to and from the accompanied site visit will not be accepted by Members from applicants or objectors given that this could be seen to show favour.
- The Chair of Planning Applications Committee will oversee the conduct of site visits and he will formally open and close the organised site visit.
- The Planning Officer, will note the names of all present.
- At the request of the Chair, the Planning Officer will briefly describe the proposal to Members and will display plans and drawings. It is expected that Members will already be familiar with the planning officer's report. The Planning Officer, will also indicate matters of fact in relation to the proposal and surrounding land which Members should take account of.
- Members may ask the Planning Officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of the planned development.
- At no time during the site visit will Members debate or comment on the planning merits or otherwise of a proposal.
- At no time during the site visit will the applicant, their agent, any objector or any other member of the public be allowed to debate the merits of the proposal with Members. This is because the accompanied site visit is not for further representations to be made; it is for Councillors to view the site and its surroundings so as to inform their subsequent decision taking when the application is presented back to the Planning Applications Committee.
- In order to assist in ensuring that Members receive the same information, they are required to keep together in one group with the chair, during the entirety of the accompanied site visit. They will not break-off to discuss the proposal separately with residents or the applicant.

## **Other Matters**

Subsequent to the accompanied site visit, at the next available Planning Applications Committee, the Planning Officer will briefly summarise the planning issues and the purpose of the site visit including the main aspects viewed.

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# **Protocol for Councillors and Officers Dealing with Licensing Matters**

## **The General Role and Conduct of Councillors and Officers**

1. It is important to appreciate that whilst both Councillors and Officers serve the public, Councillors are responsible to the Electorate while Officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors. A successful relationship between Councillors and Officers must be based on mutual trust and an understanding of each others' positions. This relationship must never be abused nor compromised.

## **Conduct of Councillors**

2. The DETR (now ODPM) 'New Council Constitutions' guidance pack states:

'Many of the licensing and enforcement functions of ordinary committees will entail them acting in a quasi-judicial capacity. The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner 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.'
3. Councillors must act in accordance with the Council's Code of Conduct for Members and co-opted Members, which provides guidance and standards for Councillors. Breaches of the Code can be referred to the Monitoring Officer (Assistant Director Law and Governance).
4. Regulatory matters such as planning and licensing, are particularly sensitive. You should adopt a particular cautious approach to planning and licensing matters.
5. It should be noted that a Councillor representing a Ward which would be directly affected by an application is most at risk of being accused of bias as these Councillors are most likely to be put under pressure to represent local 'interested parties' or 'responsible authorities' as regards a licensing application. Whilst there are no statutory requirements for Ward Councillors to excuse themselves from such licence application sub-committees (unless they have a personal and

prejudicial interest) the Councillor must carefully consider whether, in all the circumstances, an impartial observer would consider they would be biased and, if so, should decline to take part in the hearing. Members whose Ward includes the application premises, or whose Ward is likely to be directly affected by the application, may act as, or represent, an interested party.

6. Whilst Councillors have a special duty to their Ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have a responsibility to decide what view to take. Councillors must therefore represent their constituents as a body and vote in the interests of the whole Borough. The basis of the Licensing system is the consideration of private proposals against wider public interests. Much is often at stake in this process and opposing views are often strongly held by those involved. Councillors should take account of those views but they should not favour any person, company, group or locality or put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serving on the Licensing Committee.
7. Councillors should be extremely cautious about accepting gifts and hospitality and must act in accordance with the Council's Code of Conduct and any relevant Protocol.
8. No Member should be appointed to the Licensing Committee without having agreed to undertake a period of training in licensing procedures as specified by the Council.

### **Declaration and Registration of Interests**

9. The Council's Code of Conduct and relevant legislation must be followed scrupulously. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct should be avoided. It is for each Councillor to consider the application of the Council's Code of Conduct to his or her personal circumstances.
10. Members must also be aware of the need to register certain financial and other interests in a register maintained by the Monitoring Officer. It is good practice to review those entries on a six-monthly basis, although any changes should be notified by Councillors within 28 days. Councillors who have interests which would prevent them from

voting on a regular basis, should avoid serving on the Licensing Committee.

11. The position with regard to pecuniary and non-pecuniary interests is contained within the Council's Code of Conduct. The guiding rule for Councillors must be that one should not use one's position to further a private or personal interest rather than the general public interest or give grounds for such suspicion. Such private interests could arise through family, friends, clubs, freemasons, trade unions and voluntary bodies.
12. A situation may occur where the Councillor carries out a function for another public authority or another local authority which is making an application for a licence, or which is making a representation. For example, if a local school is applying for a premises licence and the Councillor is on the governing body of the school. It may also occur where the Councillor is dual-hatted and is a member of a parish council as well as the Licensing Committee.
13. Members are advised to refer to the Council's Code of Conduct for the circumstances in which they will need to declare a pecuniary interest and withdraw from the meeting during consideration of an item.

**Examples of situations where an interest ought to be declared and the Member ought to leave the meeting**

- A Licensing application submitted by a local Golf Club of which a Councillor is a Member.
- An application related to premises adjacent to or in close proximity to a Member's own residence.
- An application lodged by a member of a Councillor's own family.
- An application by a company or individual for whom a Councillor or a member of a Councillor's family may work.
- Where the Councillor belongs to a lobby or campaign group which supports the aims of the application or those who may make representations against the application. (Although it is relevant in this case to take into account how active the Councillor is on the particular issue).

## **Conduct of Officers**

### 14. Officers shall :-

- (a) not discriminate, in all their professional activities, on the grounds of race, sex, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity;
- (b) not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions and shall not knowingly enter into any contract or agreements which requires them to do so;
- (c) take all reasonable precautions to ensure that no conflict of duty arises between the interests of the Borough Council and the interests of themselves or any third party. Any such conflict shall be immediately reported and subsequently confirmed in writing to all the parties concerned;
- (d) not disclose or use to the advantage of themselves or the Borough Council information acquired in confidence in the course of their work; or
- (e) decline any discounts, gifts or commissions offered by any third parties in connection with their work.

## **Applications submitted by Councillors and Officers, and Applications in respect of Council Premises and Employees**

- 15. Applications submitted to the Council by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is vital that they are handled in a way which gives no grounds for accusations of favouritism.
- 16. Serving Councillors who prepare applications or generally act as agents for people pursuing a Licensing matter should play no part in the decision-making process for that proposal. Similarly, if they submit a proposal themselves, they should take no part in the processing of that application.
- 17. The Group Director of Services will endeavour to ensure that all such applications are identified and highlighted and will also take steps to ensure that the Councillor in question is aware of the contents of the

Protocol and refer him or her to the Council's Code of Conduct.

18. The Council's Monitoring Officer should be informed of any such proposals.
19. Those applications are to be reported to the Licensing Committee for consideration and not dealt with by Officers under delegated powers; the Monitoring Officer should be able to confirm in that report that the application has been processed normally and therefore must be given the opportunity to review the file.
20. Serving Officers should not prepare applications or generally act as agents for people pursuing a Licensing matter, with this Council. If they submit an application on their own behalf, they should take no part in the processing of that application.
21. Applications for the Council's own premises and employees must be treated in the same way as those of private applicants, in full accordance with the Council's Constitution and the licensing objectives.

### **Lobbying of and by Councillors**

22. Lobbying is a perfectly proper part of the political process; those who may be affected by a Licensing decision will often seek to influence it through an approach to their elected Ward Member or a Member of the Licensing Committee. That is quite understandable and part of the political/representative process. However, such lobbying can call into question the impartiality and integrity of a Councillor.
23. The Council's Code of Conduct requires, amongst other things that Members (and co-opted Members) of the Council must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority. Furthermore, a Member (or co-opted Member) must not conduct himself or herself in a manner which could reasonably be regarded as bringing his Office or Authority into disrepute.
24. Members and Officers should avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants and objectors.
25. Members of the Licensing Committee must not express an opinion to a person lobbying, they must make it clear that they will only be in a position to take a decision after having heard all the relevant evidence

and arguments at the hearing. Councillors should not commit themselves one way or the other before hearing all the arguments and evidence. Councillors who are members of the Licensing Committee should not participate in lobbying for a particular outcome unless they are prepared not to sit on the licensing sub-committee which considers the application.

26. A Councillor with a pecuniary interest must not use any advantage available to them as a Member, which would include, for example, access to officers and other Council members. The Councillor should not ask for, nor be allowed access to, papers and persons which would not be available to an ordinary member of the public, and must not be able to view the proceedings of the Licensing sub-committee, which are not available to members of the public. A Councillor should not lobby other Councillors to the extent, for example, of attempting to obtain a commitment as to how the Councillor might vote.

### **Site Visits**

27. LACORS guidance states

‘Site visits by Licensing Sub-Committee Members are generally unnecessary and can put the Members and the Licensing Authority at risk of accusations of bias. If a Licensing Authority believes that there might be occasions where visits are required then it would be advised to have set out the reasons why this might be the case in local guidance, so that there are clear criteria for justifying any visit, which can be documented. Licensing Authorities would also be advised to have clear guidance as to how the visits are conducted.’

Site visits should only be used where the expected benefit is substantial. Examples of situations where the expected benefit would be substantial include :-

- (a) cases where a plan of the premises and also its surrounding area does not adequately indicate the relationship of the application to neighbouring property;
- (b) cases where the effect on objectors areas and property cannot be readily discerned from plans and such effect is likely to be substantial; and
- (c) cases where the application is particularly contentious.

28. A record of the reasons why a site visit is called should be maintained by the Assistant Director Law and Governance.
29. The site visit should consist of an inspection by the Sub-Committee, with Officer assistance, to explain the impact of the application requirements.
30. The applicant and objectors will be informed that a site visit is taking place and may be present but the Sub-Committee will not be able to hear representations. The site visit will enable the parties to make clear various aspects relating to the application.
31. Site visits must not be used as a forum for debate and should only be used in exceptional circumstances.

### **Other Relevant Matters**

32. There should be no political group meetings prior to the Sub-Committee meeting to decide how Councillors should vote.
33. Councillors must not put pressure on Officers to make any particular representations or recommendations.
34. Councillors who are unsure whether an interest should be declared should seek the advice of the Monitoring Officer.

### **Pre-Application Discussions - Requirements of Officers**

35. It should be made clear at the outset that any such discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
36. Advice should be consistent and based upon the Licensing Policy and all other material considerations. All Officers taking part in such discussions should make clear whether or not they are the decision maker.
37. A written note must be made of all potentially contentious meetings. At least two Officers should attend such meetings (for corroborative purposes) and a follow-up letter is advisable when documentary material has been left with the Council. A note similarly should be taken of potentially contentious telephone discussions.
38. Advice must not be partial nor seen to be partial.

## **Officer Reports to Committee**

39. All applications considered by the Licensing Sub-committees should be the subject of full written reports from Officers.



# **Protocol of Member/Officer Relations**

## **PRINCIPLES TO BE OBSERVED**

1. The Protocol can be neither prescriptive nor comprehensive to all the circumstances facing Members and Officers. Therefore it is founded on the following principles :-
  - advice to political groups must be given in such a way as to avoid compromising an Officer's political neutrality;
  - advice must be confined to Council business not party business;
  - relationships with a particular Political Group should not be such as to create public suspicion that an Officer favours that Group above others;
  - information communicated to an Officer by a Political Group in confidence should not be communicated to other Political Groups;
  - Officers' overriding responsibilities are to the Council; and
  - Officers' political restrictions must be respected at all times.

## **GUIDELINES**

### **2. The Roles of Members and Officers**

- (a) The role of Members is to represent their constituents within the context of any political manifesto or group to which they may subscribe.
- (b) The role of Officers is to advise on and implement decisions of the Council or to make delegated decisions within the policy set by the Council.
- (c) All decisions of the Council which are not delegated to Officers will be made by the Council, Cabinet or another Committee.
- (d) Other than as described below, individual Members should not seek to instruct or influence Officers in the carrying out of their duties, although they may represent the views of their constituents.

### **3. Advice to Political Groups/Independent Members**

- (a) It is practice for Political Groups and Independent Members (if any) to give preliminary consideration to items of business in advance of the Cabinet, Committees or the Council. Officers may be called upon to support such deliberations.
- (b) This support is normally by way of a briefing meeting with the leading Members prior to a Committee or Cabinet meeting. In practice such Officer support is likely to be in demand from the majority Group, but can be available to all Political Groups or Independent Members (if any) within reason.

In these circumstances :-

- (i) 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. To observe this distinction Officers will not be present at meetings, or parts of meetings, when matters of Party business are to be discussed;
  - (ii) Political Group meetings, or similarly with individual Members, whilst they may form part of the preliminaries to Council decision-making, cannot make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions. It is essential that they are not interpreted or acted upon as such; and
  - (iii) where Officers may provide information and advice to a Political Group meeting in relation to a matter of Council business, this is not a substitute for providing all necessary information and advice to the relevant body when the matter is considered.
- (c) Officers will not attend Political Group meetings where there are persons present who are not Members or Officers of the Authority. Attendance at Political Group meetings will be subject to the prior approval of the Chief Executive or a Chief Officer.
  - (d) Officers will not normally advise as to policies which a minority Party or Independent Members should pursue.
  - (e) Officers must respect the confidentiality of any Political Group or individual Member discussion at which they are present. They

should not relay the content of any such discussion to another Political Group or individual Members.

- (f) Any cases of difficulty or uncertainty should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s) or individual Members.

## **Support Services to Members and Political Groups**

- 4. The Council provides support services to Members to assist them in discharging their role as Members. They should never be used in connection with party political or campaigning activity or for private purposes.

## **5. Members' Access to Information and to Council Documents**

- (a) Members may approach any Department to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent.
- (b) Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Cabinet meeting. This right applies irrespective of whether the Member is a Member of the body concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the confidential agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. Members should not themselves or require Officers to infringe the Data Protection Act.
- (c) Additionally, Members have a right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.

- (d) The 'need to know' must be demonstrated. A Member has no right to 'a roving commission' to examine documents of the Council. Curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Chief Officer whose Department holds the document in question (with advice from the Assistant Director Law and Governance). In the event of dispute, the Chief Officer is entitled to consult with the Chief Executive whose decision will be final.
- (e) If meeting a request involves committing an unreasonable level of resource, the Chief Officer will consult with the appropriate Group Leader and the Chief Officer's decision will be final.
- (f) Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

## **6. Officer/Leader/Cabinet/Chair and Vice-Chair Relationships**

- (a) There will be a close working relationship between the Chief Executive, Leader, Cabinet Members and the Chair and Vice-Chair of a Committee and similarly the Chief Officer and other Senior Officers. 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 Political Groups.
- (b) Whilst the Leader, Chair and Vice-Chair of a Committee will routinely be consulted as part of the process of drawing up the agenda for a meeting, in some situations a Chief Officer will be under a duty to submit a report on a particular matter. A Chief Officer will always be responsible for the contents of any report submitted in his/her name. Any issues arising should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council for matters relating to the Cabinet and relevant Chairs for non-Executive and Scrutiny matters.
- (c) Most decisions (relating to the discharge of any of the Council's functions) will be taken by the Cabinet, a Committee or an Officer under delegated powers. Action between meetings can only be taken by an Officer in accordance with the Scheme of Delegation.
- (d) Officers are accountable to their Chief Officer and whilst Officers should always seek to assist the Leader, Cabinet Members, Chairs

or Vice-Chairs (or indeed any Member) they must not go beyond the bounds of whatever authority they have been given by their Chief Officer.

- (e) The following guidelines apply to the Chief Executive in particular :-
- (i) the Chief Executive is the employee of the Council as a whole and his/her overriding responsibility is to the Council and not to any Political Group or individual Members;
  - (ii) the Chief Executive is expected to work closely with the Leader and to give information, assistance and advice. Subject to maintaining his/her position of political neutrality, he/she may develop a special relationship with the Leader and Cabinet Members and will not, without consent, disclose information on any matters discussed with that leadership to the minority political groups or independent Members;
  - (iii) the political neutrality of the Chief Executive should be respected by everyone;
  - (iv) all Members of the Council have a right of access to the Chief Executive;
  - (v) it is proper for the Chief Executive to develop a working relationship with the Minority Political Groups and Independent Members (if any) on the Council, but will not advise as to policy which any Minority Party or Independent Member should pursue. The Chief Executive will not reveal to other Political Groups or any Independent Member the content of confidential discussions with any Group or Independent Member, unless consent has been specifically given by the Leader of the Group or the Independent Member concerned;
  - (vi) as an employee of the whole Council, the Chief Executive will inform the Leader of any case where he/she considers that the Minority Parties or Independent Members should be given information or be consulted; and

- (vii) an Officer will refer to the Chief Executive any request from a Member for a copy of a confidential paper and the Chief Executive will decide whether or not the paper will be made available to the Member. The Chief Executive will inform the Leader of the decision.
- (f) Insofar as they are applicable, the above guidelines also apply to all Directors.

## **7. Correspondence**

- (a) Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member, except where this is part of the Council's routine procedure for a particular type of correspondence. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear.
- (b) Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

## **8. Involvement of Ward Councillors**

- (a) Members are elected to represent their constituents. The intention is that Members appropriately engage fully with their constituents and obtain their views with the intention of feeding this into the Council's activities.

Information may be sought of Officers, but Members should not lobby for a particular outcome with Officers.

- (b) Whenever a consultation is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be involved.

## **Press Releases**

- (c) Press releases are made on behalf of the Council and will be made by the Communications Unit after consulting, where practicable, with the Leader, an appropriate Member of the Cabinet or relevant Committee Chair.
- (d) Other than as set out above, press releases will not be made at the instigation of individual Members.

## **9. Complaint Procedure**

### Under the Code of Conduct

- (a) Where an Officer is concerned about the conduct of a Member they should approach their line manager in the first instance to raise the issue directly with the Member. Where the line manager is unable to reach a resolution, the complaint can be escalated to the Director and eventually to the Chief Executive. At any stage, Officers can call upon the support of the Monitoring Officer in interpreting the Code of Conduct and providing advice on the process. The purpose of the process will be to resolve the complaint to the satisfaction of both parties. Informal attempts at resolution may include the involvement of the relevant group leader. This process cannot impose sanctions on a Member or determine that there is no foundation in the complaint. An Officer will continue to be entitled to pursue the complaint with the Monitoring Officer under the local Procedure for Dealing with Complaints against Members.
- (b) Where an Officer raises a concern about the conduct of a Member with the Monitoring Officer, the Monitoring Officer should discuss with the Officer informal resolution of the complaint. In the first instance the Officer should use the procedure set out above.

### Complaints Against Members for breaches of the Protocol and Procedure Rules

- (a) Any Complaints should be dealt with under the procedure set out above. The Monitoring Officer can provide advice as to whether the complaint is a complaint under the Code of Conduct or under the Protocol.

## Complaints Against Officers for breaches of the Protocol and Procedure Rules

- (a) A complaint against an officer should be raised with the officer themselves in the first instance, but if this is not appropriate can be raised with their line manager. If the Member continues to be dissatisfied, a complaint can be made to the relevant Director who will appoint an officer to investigate the complaint. The findings will be provided in a written response in relation to the specific concerns raised by the Member. If resolution is not possible at this stage the matter will be referred finally to the Chief Executive.
- (b) If a Member complains about a Director an attempt should be made to resolve the matter with the Director in the first instance and if that is unable to resolve the issue a complaint can be made to the Chief Executive.
- (c) If the complaint concerns a complaint that the Chief Executive has failed to follow the Protocol or a Procedure Rule, the Monitoring Officer will investigate and produce a report to the Chief Executive recommending any action in relation to the complaint.



**DARLINGTON BOROUGH COUNCIL**  
**LOCAL CODE OF CORPORATE GOVERNANCE**

**1. INTRODUCTION**

Governance comprises the arrangements put in place by the Council to ensure that the intended outcomes for stakeholders are defined and achieved.

To deliver good governance both the Council and individuals working for it must try to achieve the Council's objectives while acting in the public interest at all times. Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders.

The core principles of good governance are: -

- (a)** Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
- (b)** Ensuring openness and comprehensive stakeholder engagement.
- (c)** Defining outcomes in terms of sustainable economic, social, and environmental benefits.
- (d)** Determining the interventions necessary to optimise the achievement of the intended outcomes.
- (e)** Developing the entity's capacity, including the capability of its leadership and the individuals within it.
- (f)** Managing risks and performance through robust internal control and strong public financial management.
- (g)** Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

The Council supports these principles fully. This Code is a public statement of the commitment to these principles and sets out clearly the way in which the Council will meet that commitment.

The main body of the Code is divided into seven sections, each of which covers a particular core principle together with supporting principles, of good governance. Under each section, the means by which the Council will meet and demonstrate its commitment to good governance in relation to that principle is exemplified.

**2. BEHAVING WITH INTEGRITY, DEMONSTRATING STRONG COMMITMENT TO ETHICAL VALUES, AND RESPECTING THE RULE OF LAW**

The Council is accountable not only for how much it spends, but also for how it uses the resources under its stewardship. This includes accountability for outputs, both positive

and negative, and for the outcomes it has achieved. In addition, it has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that it can demonstrate the appropriateness of its actions across all activities and that it has mechanisms in place to encourage and enforce adherence to ethical values and to respect the rule of law.

**(a) Behaving with Integrity**

In order to meet this commitment the Council will :-

- (i) Ensure members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organisation;
- (ii) Ensure members take the lead in establishing specific standard operating principles or values for the organisation and its staff and that they are communicated and understood. These will build on the Seven Principles of Public Life (the Nolan Principles);
- (iii) Lead by example and use the above standard operating principles or values as a framework for decision making and other actions;
- (iv) Demonstrate, communicate and embed the standard operating principles or values through appropriate policies and processes which are reviewed on a regular basis to ensure that they are operating effectively.

**(b) Demonstrating strong commitment to ethical values**

In order to meet this commitment the Council will :-

- (i) Seek to establish, monitor and maintain the organisation's ethical standards and performance;
- (ii) Underpin personal behaviour with ethical values and ensure they permeate all aspects of the organisation's culture and operation;
- (iii) Develop and maintain robust policies and procedures which place emphasis on agreed ethical values;
- (iv) Ensure that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the organisation.

**(c) Respecting the rule of law**

In order to meet this commitment the Council will :-

- (i) Ensure members and staff demonstrate a strong commitment to the rule of law as well as adhering to relevant laws and regulations;

- (i) Create the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements;
- (ii) Strive to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders;
- (iii) Deal with breaches of legal and regulatory provisions effectively;
- (iv) Ensure corruption and misuse of power are dealt with effectively.

### **3. ENSURING OPENNESS AND COMPREHENSIVE STAKEHOLDER ENGAGEMENT**

The Council is run for the public good, therefore will ensure openness in its activities. Clear, trusted channels of communication and consultation will be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders.

#### **(a) Openness**

In order to meet this commitment the Council will:-

- (i) Ensure an open culture through demonstrating, documenting and communicating the organisation's commitment to openness;
- (ii) Make decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential will be provided;
- (iii) Provide clear reasoning and evidence for decisions in both public records and explanations to stakeholders and be explicit about the criteria, rationale and considerations used. In due course, ensure that the impact and consequences of those decisions are clear;
- (iv) Use formal and informal consultation and engagement to determine the most appropriate and effective interventions/courses of action.

## **(b) Engaging comprehensively with institutional stakeholders**

**Institutional stakeholders are the other organisations that the Council needs to work with to improve services and outcomes (such as commercial partners and suppliers as well as other public or third sector organisations) or organisations to which it is accountable.**

In order to meet this commitment the Council will:-

- (i) Effectively engage with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship is clear so that outcomes are achieved successfully and sustainably;
- (ii) Develop formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively;
- (iii) Ensure that partnerships are based on trust, a shared commitment to change and a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit.

## **(c) Engaging with individual citizens and service users effectively**

In order to meet this commitment the Council will:-

- (i) Establish a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes;
- (ii) Ensure that communication methods are effective and that members and officers are clear about their roles with regard to community engagement;
- (iii) Encourage, collect and evaluate the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs;
- (iv) Implement effective feedback mechanisms in order to demonstrate how views have been taken into account;
- (v) Balance feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity;
- (vi) Take account of the impact of decisions on future generations of tax payers and service users.

## **4. DEFINING OUTCOMES IN TERMS OF SUSTAINABLE ECONOMIC, SOCIAL, AND ENVIRONMENTAL BENEFITS**

The long-term nature and impact of many Council responsibilities mean that it will define and plan outcomes and that these will be sustainable. Decisions will further the organisation's purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources. Input from all groups of stakeholders, including citizens, service users, and institutional stakeholders, is vital to the success of this process and in balancing competing demands when determining priorities for the finite resources available.

### **(a) Defining outcomes**

In order to meet this commitment the Council will :-

- (i) Have a clear vision, which is an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy, planning and other decisions;
- (ii) Specify the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer;
- (iii) Deliver defined outcomes on a sustainable basis within the resources available;
- (iv) Identify and manage risks to the achievement of outcomes;
- (v) Manage service users' expectations effectively with regard to determining priorities and making the best use of the resources available.

### **(b) Sustainable economic, social and environmental benefits**

In order to meet this commitment the Council will :-

- (i) Consider and balance the combined economic, social and environmental impact of policies and plans when taking decisions about service provision;
- (ii) Take a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints;
- (iii) Determine the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs;
- (iv) Ensure fair access to services.

## **5. DETERMINING THE INTERVENTIONS NECESSARY TO OPTIMISE THE ACHIEVEMENT OF THE INTENDED OUTCOMES**

The Council achieves its intended outcomes by providing a mixture of legal, regulatory, and practical interventions (courses of action). Determining the right mix of these courses of action is a critically important strategic choice that the Council has to make to ensure intended outcomes are achieved. It needs robust decision-making mechanisms to ensure defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations. Decisions need to be reviewed frequently to ensure that achievement of outcomes is optimised.

### **(a) Determining interventions**

In order to meet this commitment the Council will :-

- (i) Ensure decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks. Therefore ensuring best value is achieved however services are provided;
- (ii) Consider feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.

## **(b) Planning interventions**

In order to meet this commitment the Council will :-

- (i) Establish and implement robust planning and control cycles that cover strategic and operational plans, priorities and targets;
- (ii) Engage with internal and external stakeholders in determining how services and other courses of action will be planned and delivered;
- (iii) Consider and monitor risks facing each partner when working collaboratively, including shared risks;
- (iv) Ensure arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances;
- (v) Establish appropriate key performance indicators (KPIs) as part of the planning process in order to identify how the performance of services and projects is to be measured;
- (vi) Ensure capacity exists to generate the information required to review service quality regularly;
- (vii) Prepare budgets in accordance with objectives, strategies and the medium term financial plan;
- (viii) Inform medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy.

## **(c) Optimising achievement of intended outcomes**

In order to meet this commitment the Council will :-

- (i) Ensure the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints;
- (ii) Ensure the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term;
- (iii) Ensure the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage;

- (iv) Ensure the achievement of 'social value' through service planning and commissioning.

## **6. DEVELOPING THE ENTITY'S CAPACITY INCLUDING THE CAPABILITY OF ITS LEADERSHIP AND THE INDIVIDUALS WITHIN IT**

The Council needs appropriate structures and leadership, as well as people with the right skills, appropriate qualifications and mind-set, to operate efficiently and effectively and achieve intended outcomes within the specified periods. The Council must ensure that it has both the capacity to fulfil its own mandate and to make certain that there are policies in place to guarantee that its management has the operational capacity for the organisation as a whole. As both individuals and the environment in which the Council operates will change over time, there will be a continuous need to develop capacity as well as the skills and experience of individual staff members. Leadership in the Council is strengthened by the participation of people with many types of backgrounds, reflecting the structure and diversity of communities.

### **(a) Developing the entity's capacity**

In order to meet this commitment the Council will :-

- (i) Review operations, performance and use of assets on a regular basis to ensure their continuing effectiveness;
- (ii) Improve resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently;
- (iii) Recognise the benefits of partnership and collaborative working where added value can be achieved;
- (iv) Develop and maintain an effective workforce plan to enhance the strategic allocation of resources.

### **(b) Developing the capability of the entity's leadership and other individuals**

In order to meet this commitment the Council will :-

- (i) Develop protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained;
- (ii) Publish a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body;
- (iii) Ensure the Leader and the Chief Executive have clearly defined and distinctive leadership roles within a structure whereby the Chief Executive leads in implementing strategy and managing the delivery of services and other outputs set by members and each provides a check and a balance for each other's authority;
- (iv) Develop the capabilities of members and senior management to achieve effective leadership and to enable the organisation to respond successfully to

changing legal and policy demands as well as economic, political and environmental changes and risks by:

- ensuring members and staff have access to appropriate induction tailored to their role and that ongoing training and development matching individual and organisational requirements is available and encouraged;
  - ensuring members and officers have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensuring that they are able to update their knowledge on a continuing basis;
  - ensuring personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external;
- (v) Ensure there are structures in place to encourage public participation;
- (vi) Take steps to consider the leadership's own effectiveness and ensure leaders are open to constructive feedback from peer review and inspections;
- (vii) Hold staff to account through regular performance reviews which take account of training or development needs;
- (viii) Ensure arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.

## **7. MANAGING RISKS AND PERFORMANCE THROUGH ROBUST INTERNAL CONTROL AND STRONG PUBLIC FINANCIAL MANAGEMENT**

Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships

The Council needs to ensure that the organisation and governance structures that it oversees have implemented, and can sustain, an effective performance management system that facilitates effective and efficient delivery of planned services. Risk management and internal control are important and integral parts of a performance management system and are crucial to the achievement of outcomes. Risk should be considered and addressed as part of all decision making activities.

A strong system of financial management is essential for the implementation of policies and the achievement of intended outcomes, as it will enforce financial discipline, strategic allocation of resources, efficient service delivery and accountability.

It is also essential that a culture and structure for scrutiny is in place as a key part of accountable decision making, policy making and review. A positive working culture that accepts, promotes and encourages constructive challenge is critical to successful service delivery. Importantly, this culture does not happen automatically, it requires repeated public commitment from those in authority.

### **(a) Managing risk**

In order to meet this commitment the Council will:-

- (i) Recognise that risk management is an integral part of all activities and must be



considered in all aspects of decision making;

- (i) Implement robust and integrated risk management arrangements and ensure that they are working effectively;
- (ii) Ensure that responsibilities for managing individual risks are clearly allocated.

## **(b) Managing performance**

In order to meet this commitment the Council will:-

- (i) Monitor service delivery effectively including planning, specification, execution and independent post implementation review;
- (ii) Make decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook;
- (iii) Ensure an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible;
- (iv) Provide members and senior management with regular reports on service delivery plans and on progress towards outcome achievement;
- (v) Ensure there is consistency between specification stages (such as budgets) and post implementation reporting (eg financial statements).

## **(c) Robust internal control**

In order to meet this commitment the Council will :-

- (i) Align the risk management strategy and policies on internal control with achieving objectives;
- (ii) Evaluate and monitor risk management and internal control on a regular basis;
- (iii) Ensure effective counter fraud and anti-corruption arrangements are in place;
- (iv) Ensure additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor;
- (v) Ensure that an audit committee, which is independent of the executive and accountable to the governing body:
  - Provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment;
  - That its recommendations are listened to and acted upon.

## **(d) Managing data**

In order to meet this commitment the Council will :-

- (i) Ensure effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data;
- (ii) Ensure effective arrangements are in place and operating effectively when sharing data with other bodies;
- (iii) Review and audit regularly the quality and accuracy of data used in decision making and performance monitoring.

**(e) Strong public financial management**

In order to meet this commitment the Council will:-

- (i) Ensure financial management supports both long-term achievement of outcomes and short-term financial and operational performance;
- (ii) Ensure well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls.

**8. IMPLEMENTING GOOD PRACTICES IN TRANSPARENCY, REPORTING, AND AUDIT TO DELIVER EFFECTIVE ACCOUNTABILITY**

Accountability is about ensuring that those making decisions and delivering services are answerable for them. Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner. Both external and internal audit contribute to effective accountability.

**(a) Implementing good practice in transparency**

In order to meet this commitment the Council will:-

- (i) Write and communicate reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate;
- (ii) Strike a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand.

**(b) Implementing good practices in reporting**

In order to meet this commitment the Council will:-

- (i) Report at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way;
- (ii) Ensure members and senior management own the results reported;
- (iii) Ensure robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publish the results of this assessment, including an action plan for improvement and evidence to demonstrate good governance (the annual governance statement);

- (iv) Ensure that this Framework is applied to jointly managed or shared service organisations as appropriate;
- (v) Ensure the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations.

**(c) Assurance and effective accountability**

In order to meet this commitment the Council will:-

- (i) Ensure that recommendations for corrective action made by external audit are acted upon;
- (ii) Ensure an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon;
- (iii) Welcome peer challenge, reviews and inspections from regulatory bodies and implement recommendations;
- (iv) Gain assurance on risks associated with delivering services through third parties and that this is evidenced in the annual governance statement;
- (v) Ensure that when working in partnership, arrangements for accountability has been recognised and met.

**9. EVIDENCING THE CORE PRINCIPLES**

All policies, systems, procedures and structures that determine and control the way in which the Council manages its business for the greater good of the community comprise the Local Code or Governance Framework.

To ensure that this Code is a dynamic process that leads to real outcomes, it has been developed as follows:-

- (a) The key documents and functions that support corporate governance, and in turn shape other processes have been identified. Some of these documents and functions such as the Constitution and the authority's Service Planning and Performance Management Framework contribute towards more than one core principle.
- (b) For each document/function the target population i.e. who should be aware of this document or function has been identified. In all cases there are several target audiences and an approach has been developed that distinguishes between audiences to best service their needs;
- (c) A lead officer for each document/function has also been identified to ensure that the identified duty in respect of corporate governance is clearly assigned to an accountable person;
- (d) A distinctive feature of Darlington's Local Code is that it has been designed as a process not a one-off document. Therefore, three discrete types of actions have

been identified and assigned to nominated officers. These types of action are :-

- (i) **AWARENESS** - making sure that everyone who needs to know about the document/function does know about it;
- (ii) **MONITORING** - ensuring that the duty is carried out;
- (iii) **REVIEW** - parts of the Local Code will continue to evolve and develop as local government modernisation continues and legislation changes. Review actions ensure that all parts of the Code are reviewed in the light of effectiveness and emerging good practice.

## 10. ARRANGEMENT FOR ENSURING ONGOING APPLICATION AND EFFECTIVENESS

In order to meet the statutory requirements set out in Regulation 6 (1) (a) of the Accounts and Audit Regulations 2015 an Annual Governance Statement will be signed by the Leader of the Council and Chief Executive and published with the Annual Statement of Accounts to report publicly on the extent to which the Council has complied with its Code. This Statement will include how the effectiveness of the governance arrangements has been monitored and any planned changes in the coming period.

A Corporate Group of officers will be responsible for overseeing the drafting of the annual governance statement after evaluating assurances and supporting evidence. The statement will be subject to independent review and approval by the Audit Committee.

The Corporate Group of officers will consist of the: -

Chief Executive  
Group Director of Operations (S151 Officer)  
Assistant Director Law and Governance (Monitoring Officer)  
Head of Strategy, Performance and Communications

The Group will regularly monitor the Local Code in order

to:-

- (a) Consider whether any aspects of the Local Code need to be specifically reviewed or updated.
- (b) Satisfy themselves that the management processes defined in the Local Code are actually being adhered to throughout the organisation.

## 11. FURTHER INFORMATION

If you have any concerns about the way in which the Borough Council, its Members, officers or agents conduct its business, or believe that elements of this Code are not being complied with, please contact one of the following as appropriate. Your enquiry will be treated confidentially and a response made following investigation of the facts in each case.

**(a) Chief Executive**

Ian Williams  
Darlington Borough Council, Town  
Hall, Feethams, Darlington. DL1 5QT  
Tel. (01325) 405828

**(b) Assistant Director Law and Governance (Monitoring Officer)**

Luke Swinhoe  
Town Hall, Feethams, Darlington.  
DL1 5QT  
Tel. (01325) 405490

**(c) External Auditor**

Ernst & Young LLP  
Citygate,  
St James' Boulevard,  
Newcastle-upon-Tyne.  
NE1 4JD  
Tel. (0191) 2694887

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# **Protocol for the Tees Valley Health Scrutiny Joint Committee**

1. This protocol provides a framework for carrying out scrutiny of regional and specialist health services that impact upon residents of the Tees Valley under powers for local authorities to scrutinise the NHS originally contained in the Health and Social Care Act 2001 and now in the NHS Act 2006.
2. The protocol will be reviewed as soon as is reasonably practicable, at the start of each new Municipal year. Minor amendments to the protocol that do not impact on the constitutions of the constituent Tees Valley Authorities will be determined by the Joint Committee at the first meeting in each Municipal year. An amended protocol, following agreement from the Tees Valley Health Scrutiny Joint Committee will be circulated for information to:-

## **Tees Valley Local Authorities**

3. Darlington; Hartlepool; Middlesbrough; Redcar and Cleveland; Stockton-on-Tees (each referred to as either an 'authority' or 'Council').

## **Strategic Health Authority**

4. The North East Strategic Health Authority.

## **NHS Trusts**

5. County Durham and Darlington NHS Foundation Trust; North Tees and Hartlepool Trust; South Tees Hospitals Acute Trust; Tees, Esk and Wear Valleys NHS Foundation Trust and North East Ambulance Service Foundation Trust.

## **Primary Care Trusts**

6. Darlington; Hartlepool; Redcar and Cleveland; Middlesbrough and North Tees.

## **Tees Valley Health Scrutiny Joint Committee**

7. A Tees Valley Health Scrutiny Joint Committee ('the Joint Committee') comprising the five Tees Valley Authorities has been created to act as a forum for the scrutiny of regional and specialist health scrutiny issues which impact upon the residents of the Tees

valley and for sharing information and best practice in relation to health scrutiny and health scrutiny issues.

## **Membership**

8. When holding general meetings, the Joint Committee will comprise 3 Councillors from each of the Tees Valley Local Authorities (supported by appropriate Officers as necessary) nominated on the basis of each authority's political proportionality, unless it is determined by all of the constituent Local Authorities that the political balance requirements should be waived.
9. The terms of office for representatives will be one year from the date of their Authority's annual council meeting. If a representative ceases to be a Councillor, or wishes to resign from the Joint Committee, the relevant council shall inform the Joint Committee secretariat and a replacement representative will be nominated and shall serve for the remainder of the original representative's term of office.
10. To ensure that the operation of the Joint Committee is consistent with the Constitutions of all Tees Valley Authorities, those Authorities operating a substitution system shall be entitled to nominate substitutes. Substitutes (when not attending in place of the relevant Joint Committee member, and exercising the voting rights of that member) shall be entitled to attend general or review meetings of the Joint Committee as non-voting observers in order to familiarise themselves with the issues being considered.
11. The Joint Committee may ask individuals to assist it on a review by review basis (in a non-voting capacity) and may ask independent professionals to advise it during a review.
12. The quorum for general meetings of the Joint Committee shall be 6, provided that all authorities are represented at general meetings. The quorum for Tees-wide review meetings, in cases where some Authorities have chosen not to be involved, shall be one third of those entitled to be present, provided that each remaining participating authority is represented.
13. The Joint Committee will conduct health reviews which impact upon residents of the whole of the Tees Valley. If however one or more of the Councils decide that they do not wish to take part in such Tees-wide reviews, the Joint Committee will consist of



representatives from the remaining Councils, subject to the quorum requirements in paragraph 12.

14. Where a Section 244 Review will only affect the residents of part of the Tees Valley, Councils where residents will not be affected will not take part in any such review. In such cases, the Joint Committee will liaise with the Councils where residents will be affected, in order to assist in establishing a separate joint body (committee) to undertake the review concerned. The composition of the committee concerned may include representatives from other Local Authorities outside the Tees Valley, where the residents of those Authorities will also be affected by the proposed review. The chairmanship, terms of reference, member composition, procedures and any other arrangements which will facilitate the conducting of the review in question will be matters for the joint body itself to determine.
15. It is accepted, however, that in relation to such reviews, the relevant constituent authorities of the committee concerned may also undertake their own health scrutiny reviews and that the outcome of any such reviews will inform the final report and formal consultation response of the committee.

### **Chair and Vice-Chair**

16. The Chair of the Joint Committee will be rotated annually between the Tees Valley Authorities from 2004 as follows:-  
  
Stockton  
Redcar and Cleveland  
Hartlepool  
Darlington  
Middlesbrough
17. The Joint Committee shall have a Vice-Chair from the Authority next in rotation for the Chair. At the first meeting of each municipal year, the Joint Committee shall appoint as Chair and Vice-Chair the Councillors nominated by the relevant Councils. If the Chair and Vice-Chair are absent from a meeting, the Joint Committee shall appoint a member to act as Chair for that meeting. The Chair will not have a second or casting vote.

18. Where the Authority holding the Chair or Vice-Chair has chosen not to be involved in a Tees-wide review, the Chair and Vice-Chair of the Joint Committee for the duration of that review will be appointed at a general meeting of the Joint Committee.

### **Co-option of other local authorities**

19. Where the Joint Committee is to conduct a Tees-wide scrutiny review into services which will also directly impact on the residents of another local authority or authorities outside the Tees Valley, that authority or authorities will be invited to participate in the review as full and equal voting Members.

### **Terms of Reference**

20. The Joint Committee shall have general meetings involving all the Tees Valley authorities:-
- To facilitate the exchange of information about planned health scrutiny work and to share information and outcomes from local health scrutiny reviews;
  - To consider proposals for scrutiny of regional or specialist health services in order to ensure that the value of proposed health scrutiny exercises is not compromised by lack of input from appropriate sources and that the NHS is not over-burdened by similar reviews taking place in a short space of time.
21. The Joint Committee will consider any proposals to review regional or specialist services that impact on the residents of the whole Tees Valley area. The aim will be for the Joint Committee to reach a consensus on the issues to be subject to joint scrutiny, but this may not always be possible. In these circumstances it is recognised that each council can conduct its own health scrutiny reviews when they consider this to be in the best interests of their residents.
22. In respect of Tees-wide reviews (including Section 244 Reviews), the arrangements for carrying out the review (e.g. whether by the Joint Committee or a Sub-Committee), terms of reference, timescale, outline of how the review will progress and reporting procedures will be agreed at a general meeting of the Joint Committee at which all Tees Valley Authorities are represented.

23. The Joint Committee may also wish to scrutinise services provided for Tees Valley residents outside the Tees Valley. The Joint Committee will liaise with relevant providers to determine the best way of achieving this.
24. The basis of joint health scrutiny will be co-operation and partnership within mutual understanding of the following aims:-
  - to improve the health of local people and to tackle health inequalities;
  - ensuring that people's views and wishes about health and health services are identified and integrated into plans and services that achieve local health improvements;
  - Scrutinising whether all parts of the community are able to access health services and whether the outcomes of health services are equally good for all sections of the community.
25. Each Local Authority will plan its own programme of health scrutiny reviews to be carried out locally or in conjunction with neighbouring authorities when issues under consideration are relevant only to their residents. This programme will be presented to the Joint Committee for information.
26. Health scrutiny will focus on improving health services and the health of Tees Valley residents. Individual complaints about health services will not be considered. However, the Joint Committee may scrutinise trends in complaints where these are felt to be a cause for concern.

## **Administration**

27. The Joint Committee will hold regular meetings (at least quarterly). Agendas for meetings shall be determined by the secretariat in consultation with the Chair.
28. Notice of meetings of the Joint Committee will be sent to each member of the Joint Committee at least 7 days before the date of the meeting and also to the Chair of the relevant overview and scrutiny committees (for information). Notices of meetings will include the agenda and papers for meetings. Papers "to follow" will not be permitted except in exceptional circumstances and as agreed with the Chair.

29. Minutes of meetings will be supplied to each member of the Joint Committee and to the relevant Chairs of overview and scrutiny committees (for information) and shall be confirmed at the next meeting of the Joint Committee.
30. Meetings shall be held at the times, dates and places determined by the Chair.

### **Final Reports and Recommendations**

31. The Joint Committee is independent of its constituent Councils, Executives and political groups and this independence should not be compromised by any member, officer or NHS body. The Joint Committee will send copies of its final reports to the bodies that are able to implement its recommendations (including the constituent authorities). This will include the NHS and local authority Executives.
32. The primary objective is to reach consensus, but where there are any matters as regards which there is no consensus, the Joint Committee's final report and formal consultation response will include, in full, the views of all constituent councils, with the specific reasons for those views, regarding those matters where there is no consensus, as well as the constituent authorities' views in relation to those matters where there is a consensus.
33. The Joint Committee will act as a forum for sharing the outcomes and recommendations of reviews with the NHS body being reviewed. NHS bodies will prepare Action Plans that will be used to monitor progress of recommendations.

### **Section 244 Reviews**

34. The Joint Committee will act as a depository for the views of its constituent authorities when consultation by local NHS bodies has under consideration any proposal for a substantial development of, or variation in, the provision of the health service across the Tees Valley, where that proposal will impact upon residents of each of the Tees Valley Local Authorities.
35. In such cases the Joint Committee will seek the views of its constituent authorities as to whether they consider the proposed change to represent a significant variation to health provision, specifically taking into account:-

- changes in accessibility of services
  - impact of proposal on the wider community
  - patients affected
  - methods of service delivery
36. Provided that the proposal will impact upon residents of the whole of the Tees Valley, the Joint Committee will undertake the statutory review as legislated for in Section 7 of the Health and Social Care Act 2001 and later in Sections 244-245 of the NHS Act 2006. Neighbouring authorities not normally part of the Joint Committee, may be included where it is considered appropriate to do so by the Joint Committee. In accordance with paragraph 22, the Joint Committee will agree the arrangements for carrying out the Review.
37. Where a review does not affect the residents of the whole of the Tees Valley the provisions of paragraphs 14 and 15 will apply and the statutory review will be conducted accordingly.
38. In all cases due regard will be taken of the Health and Social Care Act 2001, the NHS Act 2006 and Statutory Instrument 2202 No. 3048 The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002.

### **Principles for Joint Health Scrutiny**

39. The health of Tees Valley residents is dependent on a number of factors including the quality of services provided by the NHS, the local authorities and local partnerships. The success of joint health scrutiny is dependent on the members of the Joint Committee as well as the NHS.
40. The local authorities and NHS bodies will be willing to share knowledge, respond to requests for information and carry out their duties in an atmosphere of courtesy and respect in accordance with their codes of conduct. Personal and prejudicial interests will be declared in all cases in accordance with the code of conduct for local authority members.
41. The scrutiny process will be open and transparent in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000 and meetings will be held in public. Only information that is expressly defined in regulations to be confidential or exempt from publication will be considered in private and only if the Joint Committee so decide. Papers of the Joints Committee can

be posted on the websites of the constituent authorities as determined by each authority.

42. Different approaches to scrutiny reviews may be taken in each case. The Joint Committee will seek to act as inclusively as possible and will take evidence from a wide range of opinion including patients, carers, the voluntary sector, NHS regulatory bodies and staff associations. Attempts will be made to ascertain the views of hard to reach groups, young people and the general public.
43. The Joint Committee will work to continually strengthen links with the other public and patient involvement bodies such as PCT and Trust Patient Forums.
44. The regulations covering health scrutiny require any officer of an NHS body to attend meetings of health scrutiny committees. However, the Joint Committee recognises that Chief Executives and Chairs of NHS bodies may wish to attend with other appropriate officers, depending on the matter under review. Reasonable time will be given for the provision of information by those asked to provide evidence.
45. Evidence and final reports will be written in plain English ensuring that acronyms and technical terms are explained.
46. The Joint Committee will work towards developing an annual work programme in consultation with the NHS and will endeavour to develop an indicative programme for a further 2 years. The NHS will inform the secretariat at an early stage on any likely proposals for substantial variations and developments in services that will impact on the Joint Committee's work programme. Each of the Tees Valley authorities will have regular dialogue with their local NHS bodies. NHS bodies that cover a wide geographic area (eg mental health and ambulance services) will be invited to attend meetings of the Joint Committee on a regular basis.
47. Communication with the media in connection with reviews will be handled in conjunction with all of the constituent local authorities' press officers.

# **Joint Health Overview and Scrutiny Committee of:**

**Darlington Borough Council, Durham County Council, Gateshead Council, Hartlepool Borough Council, Middlesbrough Council, Newcastle upon Tyne City Council, North Tyneside Council, Northumberland County Council, Redcar and Cleveland Borough Council, South Tyneside Council, Stockton-on-Tees Borough Council and Sunderland City Council**

## **TERMS OF REFERENCE AND PROTOCOLS**

### **Establishment of the Joint Committee**

1. The Committee is established in accordance with section 244 and 245 of the National Health Service Act 2006 ('NHS Act 2006') and regulations and guidance with the health overview and scrutiny committees of Darlington Borough Council, Durham County Council, Gateshead Council, Hartlepool Borough Council, Middlesbrough Council, Newcastle upon Tyne City Council, North Tyneside Council, Northumberland County Council, Redcar and Cleveland Borough Council, South Tyneside Council, Stockton-on-Tees Borough Council and Sunderland City Council ('the constituent authorities') to scrutinise issues around the planning, provision and operation of health services in and across the North-East region, comprising for these purposes the areas covered by all the constituent authorities.
2. The Committee will hold two full committee meetings per year. The Committee's work may include activity in support of carrying out:
  - (a) Discretionary health scrutiny reviews, on occasions where health issues may have a regional or cross boundary focus, or
  - (b) Statutory health scrutiny reviews to consider and respond to proposals for developments or variations in health services that affect more than one health authority area, and that are considered "substantial" by the health overview and scrutiny committees for the areas affected by the proposals.
  - (c) Monitoring of recommendations previously agreed by the Joint Committee.

For each separate review the Joint Committee will prepare and make available specific terms of reference, and agree arrangements and support, for the enquiry it will be considering.

### **Aims and Objectives**

3. The North East Region Joint Health Overview and Scrutiny Committee aims to scrutinise:-
  - (a) NHS organisations that cover, commission or provide services across the North East region, including and not limited to, for example, NHS North East, local primary care trusts, foundation trusts, acute trusts, mental health trusts and specialised commissioning groups.
  - (b) Services commissioned and/or provided to patients living and working across the North East region.
  - (c) Specific health issues that span across the North East region.

Note: Individual authorities will reserve the right to undertake scrutiny of any relevant NHS organisations with regard to matters relating specifically to their local population.

4. The North East Region Joint Health Overview and Scrutiny Committee will:
  - (a) Seek to develop an understanding of the health of the North East region's population and contribute to the development of policy to improve health and reduce health inequalities.
  - (b) Ensure, wherever possible, the needs of local people are considered as an integral part of the commissioning and delivery of health services.
  - (c) Undertake all the necessary functions of health scrutiny in accordance with the NHS Act 2006, regulations and guidance relating to reviewing and scrutinising health service matters.
  - (d) Review proposals for consideration or items relating to substantial developments/substantial variations to services provided across the North East region by NHS organisations, including:
    - (i) Changes in accessibility of services.



- (ii) Impact of proposals on the wider community.
  - (iii) Patients affected.
- (e) Examine the social, environmental and economic well-being responsibilities of local authorities and other organisations and agencies within the remit of the health scrutiny role.

## **Membership**

5. The Joint Committee shall be made up of 12 Health Overview and Scrutiny Committee members comprising 1 member from each of the constituent authorities. In accordance with section 21(9) of the Local Government Act 2000, Executive members may not be members of an overview and scrutiny committee. Members of the constituent local authorities who are Non-Executive Directors of the NHS cannot be members of the Joint Committee.
6. The appointment of such representatives shall be solely at the discretion of each of the constituent authorities.
7. The quorum for meetings of the Joint Committee is one-third of the total membership, in this case four members, irrespective of which local authority has nominated them.

## **Substitutes**

8. A constituent authority may appoint a substitute to attend in the place of the named member on the Joint Committee. The substitute shall have voting rights in place of the absent member.

## **Co-optees**

9. The Joint Committee shall be entitled to co-opt any non-voting person as it thinks fit to assist in its debate on any relevant topic. The power to co-opt shall also be available to any Task and Finish/Working Groups formed by the Joint Committee. Co-option would be determined through a case being presented to the Joint Committee or Task and Finish Group/Working Group, as appropriate. Any supporting information regarding co-option should be made available for consideration by Joint Committee members at least 5 working days before a decision is made.

## **Formation of Task and Finish/Working Groups**

10. The Joint Committee may form such Task and Finish/Working Groups of its membership as it may think fit to consider any aspect or aspects within the scope of its work. The role of any such Group will be to consider the matters referred to it in detail with a view to formulating recommendations on them for consideration by the Joint Committee. The precise terms of reference and procedural rules of operation of any such Group (including number of members, chairmanship, frequency of meetings, quorum etc.) will be considered by the Joint Committee at the time of the establishment of each such Group. The Chair of a specific Task and Finish Group will act in the manner of a Host Authority for the purposes of the work of that Task and Finish Group, and arrange and provide officer support for that Task and Finish Group. These arrangements may differ if the Joint Committee considers it appropriate. The meetings of such Groups should be held in public except to the extent that the Group is considering any item of business that involves the likely disclosure of exempt information from which the press and public could legitimately be excluded as defined in Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.
11. The Chair of the Joint Health Overview and Scrutiny Committee may not be the Chair of a Task and Finish Group.

## **Chair and Vice-Chairs**

12. The Chair of the Joint Committee will be drawn from the membership of the Joint Committee, and serve for a period of 12 months, from a starting date to be agreed. A Chair may not serve for two consecutive twelve-month periods. The Chair will be agreed through a consensual process, and a nominated Chair may decline the invitation. Where no consensus can be reached then the Chair will be nominated through a ballot system of one Member vote per Authority only for those Members present at the meeting where the Chair of the Joint Health Overview and Scrutiny Committee is chosen.
13. The Joint Committee may choose up to two Vice-Chairs from among any of its members, as far as possible providing a geographic spread across the region. A Vice-Chair may or may not be appointed to the position of Chair or Vice-Chair in the following year.

14. If the Chair and Vice-Chairs are not present, the remaining members of the Joint Committee shall elect a Chair for that meeting.
15. Other than any pre-existing arrangements within their own local authority, no Special Responsibility Allowances, or other similar payments, will be drawn by the Chair, Vice Chairs, or Tasking and Finish Group Chairs in connection with the business of the Joint Committee.

### **Host Authority**

16. The local authority from which the Chair of the Joint Committee is drawn shall be the Host Authority for the purposes of this protocol.
17. Except as provided for in paragraph 10 above in relation to Task and Finish Groups, the Host Authority will service and administer the scrutiny support role and liaise proactively with the other North East local authorities and the regional health scrutiny officer network. The Host Authority will be responsible for the production of reports for the Joint Committee as set out below, unless otherwise agreed by the Joint Committee. An authority acting in the manner of a Host Authority in support of the work of a Task and Finish Group will be responsible for collecting the work of that Group and preparing a report for consideration by the Joint Committee.
18. Meetings of the Joint Committee may take place in different authorities, depending on the nature of the enquiry and the potential involvement of local communities. The decision to rotate meetings will be made by members of the Joint Committee.
19. Documentation for the Joint Committee, including any final reports, will be attributed to all the participating member authorities jointly, and not solely to the Host Authority. Arrangements will be made to include the Council logos of all participating authorities.

### **Work planning and agenda items**

20. The Joint Committee may determine, in consultation with health overview and scrutiny committees in constituent authorities, NHS organisations and partners, an annual work programme. Activity in the work programme may be carried out by the Joint Committee or by a Task and Finish/Working Group under the direction of the Joint Committee. A work programme may be informed by:

- (a) Research and information gathering by health scrutiny officers supplemented by presentations and communications.
  - (b) Proposals associated with substantial developments/substantial variations.
21. Individual meeting agendas will be determined by the Chair, in consultation with the Vice-Chairs where practicable. The Chair and Vice-Chairs may meet or conduct their discussions by email or letter.
22. Any member of the Joint Committee shall be entitled to give notice, with the agreement of the Chair, in consultation with the Vice-Chairs, where practicable, of the Joint Committee, to the relevant officer of the Host Authority that he/she wishes an item relevant to the functions of the Joint Committee to be included on the agenda for the next available meeting. The member will also provide detailed background information concerning the agenda item. On receipt of such a request (which shall be made not less than five clear working days before the date for despatch of the agenda) the relevant officer will ensure that it is included on the next available agenda.

### **Notice and Summons to Meetings**

23. The relevant officer in the Host Authority will give notice of meetings to all Joint Committee members, in line with access to information rules of at least five clear working days before a meeting. The relevant officer will send an agenda to every member specifying the date, time and place of each meeting and the business to be transacted, and this will be accompanied by such reports as are available.

### **Attendance by Others**

24. The Joint Committee and any Task and Finish/Working Group formed by the Joint Committee may invite other people (including expert witnesses) to address it, to discuss issues of local concern and/or to 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.

## **Procedure at Joint Committee Meetings**

25. The Joint Committee shall consider the following business:
- (a) Minutes of the last meeting (including matters arising).
  - (b) Declarations of interest.
  - (c) Any urgent item of business which is not included on an agenda but the Chair agrees should be raised.
  - (d) The business otherwise set out on the agenda for the meeting.
26. Where the Joint Committee wishes to conduct any investigation or review to facilitate its consideration of the health issues under review, the Joint Committee may also ask people to attend to give evidence at Joint Committee meetings which are to be conducted in accordance with the following principles:
- (a) That the investigation is conducted fairly and all members of the Joint Committee be given the opportunity to ask questions of attendees, and to contribute and speak.
  - (b) That those assisting the Joint Committee by giving evidence be treated with respect and courtesy.
  - (c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

## **Voting**

27. Any matter will be decided by a simple majority of those Joint Committee members voting and present in the room at the time the motion is put. This will be by a show of hands or if no dissent, by the affirmation of the meeting. If there are equal votes for and against, the Chair or other person chairing the meeting will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

## **Urgent Action**

28. In the event of the need arising, because of there not being a meeting of the Joint Committee convened in time to authorise this, officers administering the Joint Committee from the Host Authority are generally authorised to take such action, in consultation with the Chair, and Vice-Chairs where practicable, to facilitate the role and function of the Joint Committee as they consider appropriate, having regard to any Terms of Reference or other specific relevant courses

of action agreed by the Joint Committee, and subject to any such actions being reported to the next available meeting of the Joint Committee for ratification.

## **Final Reports and Recommendations**

29. The Joint Committee will aim to produce an agreed report reflecting a consensus of its members, but if consensus is not reached the Joint Committee may issue a majority report and a minority report.
- (a) If there is a consensus, the Host Authority will provide a draft of both the conclusions and discursive text for the Joint Committee to consider.
  - (b) If there is no consensus, and the Host Authority is in the majority, the Host Authority will provide the draft of both the conclusions and discursive text for a majority report and arrangements for a minority report will be agreed by the Joint Committee at that time.
  - (c) If there is no consensus, and the Host Authority is not in the majority, arrangements for both a majority and a minority report will be agreed by the Joint Committee at that time.
  - (d) In any case, the Host Authority is responsible for the circulation and publication of Joint Committee reports. Where there is no consensus for a final report the Host Authority should not delay or curtail the publication unreasonably.

The rights of the health overview and scrutiny committees of each local authority to make reports of their own are not affected.

30. A majority report may be produced by a majority of members present from any of the local authorities forming the Joint Committee. A minority report may be agreed by any *[number derived by subtracting smallest possible majority from quorum: e.g. if quorum is 4, lowest possible majority is 3, so minority report requires 1 members' agreement]* or more other members.
31. For the purposes of votes, a “report” shall include discursive text and a list of conclusions and recommendations. In the context of paragraph 29 above, the Host Authority will incorporate these into a “final report” which may also include any other text necessary to make the report easily understandable. All members of the Joint Committee will be given the opportunity to comment on the draft of

the final report. The Chair in consultation with the Vice-Chairs, where practicable, will be asked to agree to definitive wording of the final report in the light of comments received. However, if the Chair and Vice-Chairs cannot agree, the Chair shall determine the final text.

32. The report will be sent to *[name of the NHS organisations involved]* and to any other organisation to which comments or recommendations are directed, and will be copied to NHS North East, and to any other recipients Joint Committee members may choose.
33. The *[name of the NHS organisations involved]* will be asked to respond within 28 days from their formal consideration of the Final Report, in writing, to the Joint Committee, via the nominated officer of the Host Authority. The Host Authority will circulate the response to members of the Joint Committee. The Joint Committee may (but need not) choose to reconvene to consider this response.
34. The report should include:
  - (a) The aim of the review – with a detailed explanation of the matter under scrutiny.
  - (b) The scope of the review – with a detailed description of the extent of the review and it planned to include.
  - (c) A summary of the evidence received.
  - (d) An evaluation of the evidence and how the evidence informs conclusions.
  - (e) A set of conclusions and how the conclusions inform the recommendations.
  - (f) A list of recommendations – applying SMART thinking (Specific, Measurable, Achievable, Realistic, Timely), and how these recommendation, if implemented in accordance with the review outcomes, may benefit local people.
  - (g) A list of sources of information and evidence and all participants involved.

## **Timescale**

35. The Joint Committee will hold two full committee meetings per year, and at other times when the Chair and Vice-Chairs wish to convene a meeting. Any three members of the joint committee may require a special meeting to be held by making a request in writing to the Chair.
36. Subject to conditions in foregoing paragraphs 29 and 31, if the Joint Committee agrees a report, then:
  - (a) The Host Authority will circulate a draft final report to all members of the Joint Committee.
  - (b) Members will be asked to comment on the draft within a period of two weeks, or any other longer period of time as determined by the Chair, and silence will be taken as assent.
  - (c) The Chair and Vice-Chairs will agree the definitive wording of the final report in time for it to be sent to *[name of the NHS organisations involved]*.
37. If it believed that further consideration is necessary, the Joint Committee may vary this timetable and hold further meetings as necessary. The *[name of the NHS organisations involved]* will be informed of such variations in writing by the Host Authority.

## **Guiding Principles for the undertaking of North East Regional Joint Health Scrutiny**

38. The health of the people of North East England is dependent on a number of factors including the quality of services provided by the NHS, the local authorities and local partnerships. The success of joint health scrutiny is dependent on the members of the Joint Committee as well as the NHS and others.
39. Local authorities and NHS organisations will be willing to share knowledge, respond to requests for information and carry out their duties in an atmosphere of courtesy and respect in accordance with their codes of conduct. Personal and prejudicial interests will be declared in all cases in accordance with the Members' Code of Conduct of each constituent authority.



40. The scrutiny process will be open and transparent in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000 and meetings will be held in public. Only information that is expressly defined in regulations to be confidential or exempt from publication will be considered in private. The Host Authority will manage requests and co-ordinate responses for information considered to be confidential or exempt from publication in accordance with the Host Authority's legal advice and guidance. Joint Committee papers and information not being of a confidential nature or exempt from publication may be posted on the websites of the constituent authorities as determined by each of those authorities.
41. Different approaches to scrutiny reviews may be taken in each case. The Joint Committee will seek to act as inclusively as possible and will take evidence from a wide range of opinion including patients, carers, the voluntary sector, NHS regulatory bodies and staff associations, as necessary and relevant to the terms of reference of a scrutiny review. Attempts will be made to ascertain the views of hard to reach groups, young people and the general public.
42. The Joint Committee will work to continually strengthen links with the other public and patient involvement bodies such as PCT patient groups and Local Involvement Networks, where appropriate.
43. The regulations covering health scrutiny allow an overview and scrutiny committee to require an officer of a local NHS body to attend before the committee. This power may be exercised by the Joint Committee. The Joint Committee recognises that Chief Executives and Chairs of NHS bodies may wish to attend with other appropriate officers, depending on the matter under review. Reasonable time will be given for the provision of information by those asked to provide evidence.
44. Evidence and final reports will be written in plain English ensuring that acronyms and technical terms are explained.
45. Communication with the media in connection with reviews will be handled in conjunction with the constituent local authorities' press officers.

## **Conduct of Meetings**

46. The conduct of Joint Committee meetings shall be regulated by the Chair (or other person chairing the meeting) in accordance with the general principles and conventions which apply to the conduct of local authority committee meetings.
47. In particular, however, where any person other than a full or co-opted member of the Joint Committee has been allowed or invited to address the meeting the Chair (or other person chairing the meeting) may specify a time limit for their contribution, in advance of its commencement which shall not be less than five minutes. If someone making such a contribution exceeds the time limit given the Chair (or other person chairing the meeting) may stop him or her.
48. The Chair (or other person chairing the meeting) may also structure a discussion and limit the time allowed for each agenda item and questioning by members of the Joint Committee.

## **Members' Allowances Scheme**

The Darlington Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended), hereby makes the following scheme:-

### **Introduction**

1. This scheme may be cited as the Darlington Borough Council Members' Allowances Scheme, and shall have effect for the period commencing 1<sup>st</sup> April, 2024 and shall continue in force thereafter until amended.
2. The previous Darlington Borough Council Members' Allowances Scheme is revoked with effect from 31<sup>st</sup> March 2024
3. In this scheme,  
  
    'the Authority' means Darlington Borough Council;  
  
    'Councillor' means a Member of the Darlington Borough Council who is a Councillor; and  
  
    'Year' means the period beginning 1st April to 31st March.

### **Basic Allowance**

4. For each year a basic allowance ('Basic Allowance') set out in Schedule 1 shall be paid to each Councillor.
5. Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, his/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/her term of office as Councillor subsists bears to the number of days in that year.

### **Special Responsibility Allowances**

6. 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 Authority that are specified in Schedule 2.
7. The amount of each Special Responsibility Allowance shall be the amount specified against that special responsibility in Schedule 2.
8. Where a Councillor does not have throughout the whole of the year any such special responsibilities as entitle him/her to a Special Responsibility Allowance, his/her entitlement shall be to payment of such part of the Special Responsibility Allowance as bears to whole of the same proportion as the number of days during which he/she has such Special Responsibilities bears to the number of days in that year.

9. Any Councillor who will 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.

### **Mayoral Allowances**

10. Allowances will be payable as detailed in Schedule 3

### **Dependent Carers' Allowance**

11. An Allowance ('the Dependent Carers' Allowance') will be paid to each Councillor who needs to incur the expenses of arranging for the care of their children or dependants whilst undertaking the duties as specified in Schedule 4.
12. The Dependents' Carers' Allowance will be payable in respect of actual expenditure up to a maximum of 35 hours in any one week, as specified in Schedule 4.

### **Travel and Subsistence Allowances**

13. No allowance will be made to any Councillor for any travelling or subsistence incurred whilst performing Council duties within the Borough Council boundary.
14. Travelling and Subsistence Allowances will be paid as specified in Schedule 5.

### **Education Appeals Panel Members**

15. Allowances will be payable as detailed in Schedule 6.

### **Amendments and Repayment of Part of Allowances**

16. This scheme may be amended at any time but may only be revoked with effect from the beginning of a year.
17. This scheme makes provision for an annual adjustment of the Basic, Special Responsibility allowances for a period of four years as detailed in paragraph 26 below.
18. 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 may apply with effect from the beginning of the year in which the amendment is made.
19. Where payment of any allowance already being made in respect of any period during which the Councillor concerned :-
  - ceases to be a Councillor; or
  - is in any other way not entitled to receive the allowance in respect of that period,

The Authority may require that such part of the allowances relates to any such period be repaid to the Authority.

20. Where a Councillor is also a Member of another Authority (as defined in the Regulations) that Councillor may not receive allowances from more than one Authority in respect of the same duties.

### **Election to Forego Allowances**

21. A person may, by notice in writing given to the Assistant Director Law and Governance, elect to forego all or part of his/her entitlement to any allowances under this scheme.

### **Payments**

22. Payments shall be made in respect of basic and special responsibility allowances, in instalments of one-twelfth of the amount specified in this scheme.
23. Where a payment of one-twelfth of the amount specified in this scheme in respect of the basic allowance or a special responsibility will result in the Councillor receiving more than the amount to which, by virtue of the basic and special responsibility allowance, he/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/she is entitled.

### **Publicity**

24. The Council is required to make arrangements for the publication of this Scheme within the Council's area as soon as practicable after it is made.
25. The Council is also required to publish after the end of the year the total sum paid to each Councillor during the year.

### **Indexation**

26. The following indices are applied to the remuneration and allowances paid to Members of Darlington Borough Council :-

#### **Basic Allowance, SRAs, Civic Allowances and Education Appeals Panel Members Financial Loss Allowance :-**

- Increased by same percentage applied annually to the pay of local government staff, implemented at the start of each municipal year (linked to spinal column point 43 of the NJC scheme)

#### **Dependant Carers Allowance: Elderly/Disabled element :-**

- Indexed to the rate chargeable by the Council for provision of a Home Care Assistant

**Travel :-**

- Mileage rates to be indexed to HMRC rates. Other travel will be reimbursement of actual costs taking into account the most cost effective means of transport available and the convenience of use.

**Subsistence (out of authority only) :-**

- Indexed to the same rates that apply to Officers of Darlington Borough Council, for reimbursement of actual costs up to the maximum rate applicable.

**Basic Allowance 2024/25**

The amount of the Basic Allowance payable to each Member of the Council is **£9,003.87**.

(The Basic Allowance is deemed sufficient to include the costs of incidental expenses and ICT equipment (except the Council provided laptop), consumables and peripherals and in-Borough travel and subsistence costs incurred on the part of Members).

**Special Responsibility Allowance 2024/25**

The following are specified as special responsibility allowances in respect of which special responsibility allowances are payable, and the amounts of those allowances, subject to the provisions contained in this scheme are:

	£
Leader	25,913.04
Deputy Leader (60 per cent of Leader)	15,548.04
Cabinet Member (50 per cent of Leader)	12,956.04
Scrutiny - Chair (40 per cent of Leader)	10,365.00
Chair - Planning (40 per cent of Leader)	10,365.00
Vice-Chair - Planning (25 per cent of Chair of Planning)	2,591.04
Chair - Licensing (40 per cent of Leader)	10,365.00
Vice-Chair - Licensing (25 per cent of Chair of Licensing)	2,591.04
Leader of Opposition (40 per cent of Leader)	10,365.00
Deputy Leader of Opposition (5 per cent of Leader)	1,296.00
Leader of Minority Group (5 per cent of Leader)	1,296.00
Chair - Audit Committee	2,591.04
Audit Committee – Co-optee	867.00



**MAYORAL ALLOWANCES**

The following allowances are payable:-

Mayor	£11,946.00
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Deputy Mayor	£1,008.67
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## Darlington Borough Council

### Dependent Carers' Allowance Scheme

1. A Councillor may claim a Carers' Allowance in accordance with this scheme when they incur additional expenditure for the care of children or dependent relatives whilst undertaking the following 'approved duties' :-
  - a meeting of Council
  - a meeting of Cabinet or its Sub-Committee
  - a meeting of a Scrutiny Committee or a Task and Finish Group
  - a meeting of Planning Applications Committee or its Sub-Committee
  - a meeting of Licensing Committee and its Sub-Committee
  - a meeting of the Audit Committee
  - a meeting of a Subsidiary Body appointed by the Council
  - a Training and Development Session
  - a meeting of an outside body

#### The Childcare Element

2. The childcare element reimburses reasonable expenses incurred for the care of dependent children whilst a Member carries out approved duties as specified in the 2003 Members' Allowances Regulations.
3. The re-imbusement is for actual expenditure incurred up to a maximum of 35 hours in any one week. A Member can therefore claim for care for multiple children but the total number of hours claimed for can be no more than 35 hours in total in any one week. The maximum hours claimable also allows for cancellation of meetings and for childcare that has to be booked in pre-defined blocks of time.

#### Qualifying Criteria

4. The childcare element of the allowance is paid on the basis of self monitoring. A Member must :-
  - (a) self-register with the Council's Monitoring Officer (the Assistant Director – Law and Governance) that they have a dependent child or children under the age of 16 living with them; and
  - (b) claim the allowance on production of a receipt or signed statement, which declares that the childcare has actually been provided by a childminder and not by a member of the immediate family normally resident at the Member's home address.

### **Care for Dependents on Social/Medical Grounds**

5. The DCA also provides for care of dependents on social/medical grounds, such as dependents who are elderly and/or disabled. The social/medical dependent care element of the allowance will be paid at a similar rate chargeable by Darlington Borough Council for provision of a Home Care Assistance.
6. The allowance is to be paid only on the production of a receipt for actual expenditure incurred whilst a Member is on approved duties. As care for dependents with social/medical needs will be provided by professional carers they will be in a position to provide formal receipts in a way that many child carers will not be able to do so.
7. The social/medical element of the Dependents' Carers Allowance is available to Members who have an express need for such an allowance. This express need is to take the form of a written declaration by a Member, which is lodged with the Monitoring Officer (the Assistant Director Law and Governance).

### **Further Restrictions on Claiming the DCA**

8. Members cannot claim for multiple carers for multiple dependents within the same category of care.

**Travelling and Subsistence Allowances**

**Subsistence Allowance: Outside the Darlington Borough Council area**

The Subsistence Allowances, and the conditions by which they can be claimed, by Members attending approved duties outside the Darlington Borough Council area are based and indexed to the same rates that apply to Council Officers.

Only reasonable claims will be reimbursed (only outside normal working hours in accordance with the Officers scheme) and receipts must be provided.

- Overnight Accommodation:** Any overnight accommodation required by Members will be reserved and paid for in advance by the Council

**Mileage Allowance – Within Darlington Borough Council Area**

There is no change to the provision prohibiting Members claiming Mileage Allowance for attending meetings within the Darlington Borough Council area.

**Mileage Allowance – Outside Darlington Borough Council Area**

No change to the mileage rates claimable by Members undertaking approved duties outside the Borough; they are linked to rates applicable to Officers (casual user rate).

The applicable mileage rates are set out below:-

<b>Vehicle Type</b>	<b>First 10,000 business miles in the tax year</b>	<b>Each business mile over 10,000 in the tax year</b>
<b>Cars and vans (including electric or hybrid)</b>	45p	25p
<b>Motor cycles</b>	24p	24p
<b>Bicycles</b>	20p	20p
<b>Passenger Supplement Rate</b>	5p per passenger	5p per passenger

## Approved Duties and Attendance at other Statutory Bodies

A full schedule of approved duties for which Members may claim travel and subsistence allowances (when taking place outside the Borough Boundary is detailed in the schedule below:-

**Travelling and Subsistence Allowances can be claimed for the activities and meetings below when the sessions take place outside the Borough Boundary**

**Travelling and Subsistence Allowances cannot be claimed where the external body pays a travel and subsistence allowance or when has its own Members Allowances Scheme**

**Training and Development Events  
Courses, Seminars and Conferences  
Council Appointments**

Association of Councillors (a) General Management Committee (b) Northern Branch Committee
Association of North East Councils:- (a) Leaders' and Elected Mayor's Group (b) Collaborative Procurement Sub-Committee (c) North East Cultural Partnership (d) Health and Well Being Chairs Network (e) Resources Task and Finish Review Group
<b>Combined Fire Authority – Travelling and Subsistence not claimable</b> (a) Appointments Panel (b) Appeals Committee (c) Audit and Risk Committee (d) Finance and General Purpose Committee (e) Policy and Performance Committee (f) Joint Consultative Committee (g) Salary Review Group  <b>Other Bodies</b> (a) Local Government Association (b) Community Interest Group (c) Vital Fire Solutions Ltd
Cruse Bereavement Care (Tees Valley)
Darlington and District Town Twinning Association Management Committee

Darlington Community Carnival Committee
Darlington Young Men's Christian Association – Local Management Board
Local Government Association
Standing Advisory Council on Religious Education (SACRE)
Willow Road Community Centre – Management Committee

### **Cabinet Appointments**

Association of Rail North Partnership Authorities Rail North Ltd. Transport for the North North East Rail Management Unit
Community Library (Cockerton Ltd.)
County Durham and Darlington Foundation Trust – Board of Governors
Creative Darlington
Darlington Cares
Darlington Partnership Board
Darlington Railway Museum Trust
Darlington Town Centre Deal Board
Durham County Pension Fund Committee
Family Help Organisation
Fostering Panel
Maidendale Nature and Fishing Reserve (Associate Member)
North East Ambulance Service
North East Child Poverty Commission
North East Regional Employers Organisation Executive Committee
North East Strategic Migration Partnership
Northern Housing Consortium
Northumbrian Regional Flood and Coastal Committee
Poor Moor Fund
RELATE North East
Teesside International Airport Limited – Board

Teesside International Airport Limited – Consultative Committee
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Tees Valley Local Access Forum
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Tidy North Regional Consultative Committee
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**Education Appeals Panel Members**

1. Panel Members are entitled to claim any financial loss occurred whilst attending a Panel meeting at the following rates:-
  - £27.65 (meetings up to 4 hours)
  - £55.31 (meetings over 4 hours)
2. Dependant Carers Allowances are payable to Education Appeals Panel Members as detailed in Schedule 4.

**Subsistence Allowances**

3. Only reasonable claims will be reimbursed (only outside normal working hours in accordance with the Officers scheme) and receipts must be provided.

**Mileage Allowances**

4. The applicable mileage rates are set out below:-

<b>Vehicle Type</b>	<b>First 10,000 business miles in the tax year</b>	<b>Each business mile over 10,000 in the tax year</b>
<b>Cars and vans (including electric or hybrid)</b>	45p	25p
<b>Motor cycles</b>	24p	24p
<b>Bicycles</b>	20p	20p
<b>Passenger Supplement Rate</b>	5p per passenger	5p per passenger