

# Public Document Pack



All Members of the Council

My Ref: LCS-DLDS-DS-C-022  
Your Ref:

Contact: Karen Robson  
Tel: 0191 4332129

Date: 13 April 2016

## NOTICE OF COUNCIL MEETING

You are summoned to attend a meeting of Gateshead Metropolitan Borough Council to be held in the Council Chamber - Civic Centre, at **2.30 pm** on **Thursday, 21 April 2016** to transact the following business:-

- 1. To confirm the Minutes of the meeting held 17 March 2016** (Pages 3 - 8)
- 2. Official Announcements**  
*(announcements may be made by the Mayor, Leader of the Council or the Chief Executive)*
- 3. Petitions**  
*(to receive petitions submitted under Council Procedure Rule 10)*
- 4. Questions from Members of the Public**  
*(to consider any questions submitted under Council Procedure Rule 7)*

## RECOMMENDATIONS FROM CABINET

- 5. Adult Social Care Deferred Payments Policy** (Pages 9 - 38)
- 6. 2016 - 2017 Statutory Intervention Plan for the Food Control and Health & Safety Services** (Pages 39 - 70)

7. **Corporate Health and Safety Policy** (Pages 71 - 78)
8. **Councillor Engagement and Development Framework** (Pages 79 - 132)
9. **Report from the Cabinet** (Pages 133 - 138)

## **MOTIONS AND QUESTIONS**

10. **Notice of Motion** (Pages 139 - 140)  
*(to consider any notices of motion submitted in accordance with Council Procedure Rule 9.1)*
11. **Questions**  
*(to deal with any questions submitted in accordance with Council Procedure Rule 8.1)*

A handwritten signature in black ink, appearing to read 'Jane Robinson', written in a cursive style.

**Jane Robinson**  
Chief Executive

## GATESHEAD METROPOLITAN BOROUGH COUNCIL

### COUNCIL MEETING

Thursday, 17 March 2016

**PRESENT:** THE MAYOR COUNCILLOR A GEDDES

Councillors: A Thompson, J Adams, R Beadle, C Bradley, M Brain, L Caffrey, M Charlton, B Clelland, B Coates, P Craig, S Craig, D Davidson, W Dick, S Dickie, P Dillon, C Donovan, A Douglas, K Ferdinand, P Foy, M Gannon, B Goldsworthy, M Goldsworthy, J Graham, M Graham, T Graham, G Haley, M Hall, J Hamilton, M Henry, F Hindle, M Hood, H Hughes, J Lee, K McCartney, J McClurey, J McElroy, C McHatton, P Mole, C Ord, M Ord, D Robson, S Ronchetti, C Simcox, J Simpson, J Turnbull, L Twist, J Wallace, N Weatherley and A Wheeler

**APOLOGIES:** Councillors: K Dodds, John Eagle, M Foy, J Green, L Green, S Green, S Hawkins, C McHugh, E McMaster, P McNally, M McNestry, B Oliphant and P Ronan

**Rabbi Abraham Katz, Principal of the Gateshead Jewish Academy for Girls, gave the opening address**

#### **Sheila Johnston, Assistant Chief Executive**

The Leader advised Council that this was Sheila Johnston's last meeting before her retirement from the Council. The Council thanked Sheila for her commitment and service to the Council and wished her well for the future.

#### **CL99 TO CONFIRM THE MINUTES OF THE MEETINGS HELD 4 FEBRUARY AND 25 FEBRUARY 2016**

COUNCIL RESOLVED - That the minutes of the meetings held 4 and 25 February 2016 be approved

#### **CL100 OFFICIAL ANNOUNCEMENTS**

##### **Special Olympics**

The Mayor announced that Jemma Robinson, a Powerlifter within Gateshead's Special Olympics sporting club had won four gold medals within competitions in Dundee, Gateshead and Ashington and the National Powerlifting Games in Bradford during 2015.

Jemma's performances had led to her selection by Special Olympics Great Britain to represent Great Britain in the Commonwealth Powerlifting Federation Championships in Canada on 1 December 2015 at which Jemma won a Gold and Silver medal.

In recognition of these achievements, the Mayor presented Jemma with her medals.

#### **CL101 PETITIONS**

There were no petitions submitted

#### **CL102 QUESTIONS FROM MEMBERS OF THE PUBLIC**

There were no questions from members of the public

#### **CL103 PARENT GOVERNOR REPRESENTATIVES ON COUNCIL BODIES DEALING WITH EDUCATION**

Consideration was given to a report seeking approval of the appointment of a parent governor representative to the overview and scrutiny committee that consider education matters.

COUNCIL RESOLVED - That the appointment of the following Parent Governor Representatives be approved:

<b>Name</b>	<b>School</b>
Ms Sasha Ban	Whickham School & Sports Collge
Mrs Maveen Pereira	Dryden and Hilltop Learning Federation
Mrs Jill Steer	Whickham Parochial C of E Primary School

#### **CL104 LOCAL GOVERNMENT ACT 1972 - SECTION 85**

Consideration was given to a report advising of the reasons why Councillor P McNally has been unable to attend meetings of the authority since 13 October 2015.

COUNCIL RESOLVED - That for the purpose of Section 85(1) of the Local Government Act 1972, the ill health of Councillor P McNally be agreed as the reason for his failure to attend meetings

#### **CL105 REALLOCATION OF FUNCTIONS**

Consideration was given to a report seeking approval for the re-organisation of functions within the Council's management structure.

COUNCIL RESOLVED - That the management structure changes detailed in paragraphs 7-14 of the report be approved, effective from the following dates in respect of:

- i) Policy, Economic Growth & Transformation (paragraphs 7-9) – 1 April 2016
- ii) Emergency, Planning and Resilience and Council

Housing and housing support functions, and Transport Strategy (paragraphs 10-14):

- a) 29 February 2016, for those transferring to Council Housing, Design & Technical Services
- b) 1 April 2016, for those transferring to the Gateshead Housing Company

**CL106 ADDRESSING 'LOW PAY' WITHIN THE WORKFORCE - IMPACT OF THE NATIONAL LIVING WAGE**

Consideration was given to a report seeking approval of a revised grading structure that would enable the Council to continue to address the issue of low pay within the workforce, implement the National Living Wage and move further towards the UK Living Wage.

COUNCIL RESOLVED - That the deletion of SCP 8 from the grading structure proposed be approved with effect from 1 April 2016

**CL107 ADDITIONAL NON-VOTING MEMBER - CORPORATE PARENTING SUB OVERVIEW AND SCRUTINY COMMITTEE (OSC)**

Consideration was given to a report seeking approval of an additional non-voting member being appointed to the Corporate Parenting Sub Overview and Scrutiny Committee.

COUNCIL RESOLVED - That a member of the Families OSC be appointed as an additional non-voting member of the Corporate Parenting Sub-Committee to increase continuity and cement links between the Sub-Committee and the parent Committee

**CL108 ADOPTION AND MAINTENANCE OF SUSTAINABLE DRAINAGE SYSTEMS, OPEN SPACE AND PLAY AREAS ON NEW DEVELOPMENTS**

Consideration was given to a report seeking approval of the Council acquiring, subject to conditions, Sustainable Drainage Systems (SuDS), open and/or play areas from residential developers.

COUNCIL RESOLVED - That the Council adopts the Adoption and Maintenance of sustainable drainage systems, open space and play areas on new developments Policy at Appendix 2 of the report, in respect of new residential developments

#### **CL109 RESTRUCTURE OF CARE, WELLBEING AND LEARNING**

Consideration was given to a report seeking approval of a new senior management structure within Care, Wellbeing and Learning to ensure that there is the capacity to deliver further redesign across the Group to both improve outcomes for Gateshead residents and deliver savings.

COUNCIL RESOLVED - That the proposed structure detailed in Appendix 2 of the report be approved and implemented for the Care, Wellbeing and Learning Group

#### **CL110 REFRESH OF EQUALITIES OBJECTIVES 2016 - 2020**

Consideration was given to a report seeking approval of the refreshed equality objectives which aim to address the challenges of inequality across Gateshead and to demonstrate the Council's compliance with the Public Sector Equality Duty.

COUNCIL RESOLVED - That the refreshed equality objectives be approved

#### **CL111 INDEPENDENT REMUNERATION PANEL REVIEW OF MEMBERS' ALLOWANCES SCHEME**

Consideration was given to a report seeking approval of the recommendations of the Independent Remuneration Panel following a review of the Members' Allowances Scheme.

COUNCIL RESOLVED - That the recommendations of the Independent Remuneration Panel be approved

#### **CL112 LOCALISM ACT 2011 - PAY ACCOUNTABILITY PAY POLICY STATEMENT**

Consideration was given to a report seeking approval of a revised pay policy statement.

COUNCIL RESOLVED - That the pay policy statement as set out in Appendix 2 be approved

#### **CL113 TREASURY POLICY STATEMENT AND TREASURY STRATEGY 2016/17 TO 2018/19**

Consideration was given to a report seeking approval of the Treasury Policy Statement and Treasury Strategy for 2016/17 to 2018/19.

COUNCIL RESOLVED - That the Treasury Policy Statement and the Treasury Strategy at Appendix 2 and 3 of the report be approved

**CL114 IMPLEMENTATION OF A NEW CHARGEABLE SERVICE - SUPPORTING INDEPENDENT LIVING SERVICE**

Consideration was given to a report seeking approval of the implementation of a new chargeable service delivered by Facilities Management with effect from 1 April 2016.

COUNCIL RESOLVED - That the implementation of the Supporting Independence Service be approved with effect from 1 April 2016 and introduction of the charge of £11.50 per hour for the service and for this charge to be added to the published list of fees and charges for 2016/17 be approved

**CL115 REPORT FROM THE CABINET**

The Leader of the Council reported on a number of key issues currently affecting the Council.

COUNCIL RESOLVED - That the information be noted

**CL116 NOTICE OF MOTION - NHS**

Councillor M Hood moved the following motion (altered in accordance with Council Procedure Rule 12.2):

“This Council commits to working with NHS bodies to ensure that in-patient mental health provision continues to be delivered at a readily accessible site for residents across Gateshead.”

On the motion being put it was declared to be carried

**CL117 NOTICE OF MOTION - LANDFILL SITES**

Councillor L Twist moved the following motion (altered in accordance with Council Procedure Rule 12.2):

“This Council recognises the concerns of residents in parts of the west of Gateshead regarding the impact of landfill sites on local people. It recognises the enforcement work already undertaken by the Environment Agency but, despite this, the unacceptable odours remain. The Council calls upon the Environment Agency and Council officers to ensure timely implementation of the Odour Management Plan it has received from the operators of Path Head.

It further calls upon the operators and the Environment Agency to ensure adequate monitoring of emissions of gases and odours from the quarries and to work closely with Public Health in continuing to monitor the situation, taking into account the very real concerns of residents about their short and long term health.

The Council further agrees to write out to our local Members of Parliament requesting them to press Government to ensure that the Environment Agency is given greater powers to control and manage operators of landfill sites and to strengthen national planning guidance on landfill sites, to provide stronger protection for our communities.”

On the motion being put it was declared to be carried.

**CL118 QUESTIONS**

There were no questions submitted in accordance with Council Procedure Rule 8.1.

**Mayor.....**





**COUNCIL MEETING**

**17 March 2016**

## **ADULT SOCIAL CARE DEFERRED PAYMENTS POLICY**

---

**Jane Robinson, Chief Executive**

---

### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of the proposed Deferred Payment Policy, charging of interest and administration costs.
2. Under section 34 – 36 of the Care Act 2014, and the Care and Support (Deferred Payments) Regulations of 2014, the Council is required to offer deferred payments agreements to people who meet certain criteria governing eligibility.
3. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATIONS**

4. It is recommended that Council:
  - i) approve the Deferred Payments Policy as set out in Appendix 2 of the attached report
  - ii) agree to charging of interest at the lower of 1.15% or the amount specified in regulation and administration costs based on actual costs on the deferred payments amounts
  - iii) delegate authority to the Director of Adult Social Care to amend the scheme in line with changes made by statutory provisions (such as, for example, any change in the upper capital threshold limit)

This page is intentionally left blank

**TITLE OF REPORT:**        **Adult Social Care Deferred Payments Policy**

**REPORT OF:**               **Alison Elliott, Interim Strategic Director, Care, Wellbeing and Learning**

---

### **Purpose of the Report**

1. This report explains the proposed changes to the Deferred Payments Policy brought about by the Care Act 2014, and requests Cabinet to recommend the Council to approve the proposed Deferred Payment Policy, charging of interest and administration costs.

### **Background**

2. Under section 34 – 36 of the Care Act 2014, and the Care and Support (Deferred Payments) Regulations of 2014, the Council is required to offer deferred payments agreements to people who meet certain criteria governing eligibility.

### **Proposal**

3. It is proposed that Cabinet recommends the Council to agree the Deferred Payments Policy as set out in appendix 2 of the report and also the option for the charging of interest, as set out in appendices 3 and 4 of the report.

### **Recommendations**

4. Cabinet is asked to recommend the Council to:
  - (i) Approve the Deferred Payments Policy as set out in appendix 2.
  - (ii) Agree to charging of interest at the lower of 1.15% or the amount specified in regulation and administration costs based on actual costs on the deferred payments amounts.
  - (ii) Delegate authority to the Director of Adult Social Care to amend the scheme in line with changes made by statutory provisions (such as, for example, any change in the upper capital threshold limit)

For the following reason:

To meet the requirements of the Care Act 2014.

### Policy Context

1. The proposed changes to the Deferred Payments Policy are consistent with and support our aspirations set out in Vision 2030 and the direction of travel set out in the Council Plan and, in particular, our shared outcomes for Live Well Gateshead.
2. The Care Act 2014 established a universal deferred payments scheme which means that people will not be forced to sell their home in their lifetime to pay for their care and support.

### Background

3. The Care Act 2014 provides for a deferred payment agreement (DPA) to be made to meet the cost of care, where the adult's needs for care and support are being met / would be met, by provision of accommodation in a care home or supported living accommodation. The Care and Support (Deferred Payment) Regulations 2014 provide the statutory framework for the Council's deferred payments scheme and form the basis of the Deferred Payment Policy.
4. The regulations provide for interest to be charged on any amount 'loaned' for care and support and section 9 of the regulations provide a local authority may charge interest on a deferred amount and any amounts which are treated in the same way as the deferred amount.
5. The regulations also provide that the interest rate must not exceed the maximum amount specified in regulations. The national maximum interest rate will change every six months on 1<sup>st</sup> January and 1<sup>st</sup> June to track the market gilts rate specified by the Office of Budget Responsibility in the Economic and Fiscal Outlook.
6. The regulations further provide for administration costs to be charged: These costs must not exceed the total costs actually incurred in relation to the deferred payment agreement.

### Current Position

7. The Council currently operates a deferred payments scheme, however the Care Act puts the scheme on a firm legislative footing.
8. The deferred payment scheme from April 2015 requires the Council to consider charging interest and administration charges (and interest on those administration charges if rolled up into the amount deferred) and the regulations are incorporated into the Council's deferred payment policy.
9. When deciding whether to charge interest and/or administration costs to the client, the Council must consider the following:
  - The affordability and therefore attractiveness of the scheme to the client
  - The interest and costs foregone by the Council in the amount loaned for the deferred payment arrangement

- The alternative options available for recovery of care fees.
  - The regulations governing the scheme.
10. The current maximum rate specified in regulation is 2.15% but taking account of the above in paragraph 8 it is proposed that the rate of interest charged is set at 1.15%. At this level it is sufficient to cover the interest foregone on investments for the Council.
  11. Appendix 4 Includes details of the estimated average administration costs associated with deferred payments. It is proposed that administration costs are based on actual cost recovery and therefore may differ from the average cost.
  12. The new regulations also allow for a deferred payment agreement to be made with an adult whose needs we are not meeting (because they are financially ineligible) but who asks us for a loan to meet the cost of care home accommodation or supported living accommodation.

### **Consultation**

13. In preparing the report, consultations have taken place with the Cabinet Members for Adult Social Care and Health. Public consultation on deferred payments (DPA's) commenced on 20/11/2015 and ended 15/01/2016 and details are set out in appendix 5. The consultation responses would not change the proposed policy. No consultees raised Equality or Human Rights issues as a result of the proposals.

### **Alternative Options**

14. The Care Act 2014 established a universal deferred payments scheme and therefore the Council is legally required to offer a scheme. The policy underpins that scheme.
15. The Council has discretion whether or not to charge interest and for administration costs within their deferred payments schemes but in not charging, the cost of the scheme would be borne by the Council
16. The Council could charge the maximum interest specified in regulation however at 1.15% it is considered the scheme is financially attractive for service users, whilst still allowing the Council to recover its basic costs. It is for these reasons that it is beneficial to keep the interest rate to a level that allows recovery of the interest foregone on the loan amount at least, leaving the Council with no overall financial loss. Appendix 3 to this report sets detailed examples of the impact of different rates.
17. If the cost to clients of interest and administration fees is so high that they are deterred from entering into DPAs, the Council's financial position will be undermined. Although clients will still have to pay their assessed contribution to the cost of their care, the Council will have no security for those payments. If they fail to pay, the Council would have to sue them in the County Court to recover the monies owed as an unsecured debt. It is probable that the process of suing in the County Court would have to be repeated several times as unpaid assessed contribution continued to accrue. The process would certainly be costly and time consuming and unlikely to result in the successful recovery of 100% of unpaid assessed contributions.

## Implications of Recommended Option

### 18. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that the costs associated with implementing the deferred payment policy will be recovered via charging of interest on the loan amount and charging for administration costs. The charges will be reviewed in line with the Council's Fees and Charges process.
- b) **Human Resources Implications** – No implications
- c) **Property Implications** - there are no property implications relating to this cabinet report

19. **Risk Management Implication** - Regulations enable a legal mortgage to be placed on the property to provide adequate security for the debt. Administration of the scheme will include review, at least annually, of the loan to equity position to ensure the legal mortgage continues to provide adequate security. The interest rate will be reviewed at least annually to ensure it continues to cover at least the interest foregone on the deferred amount.

20. **Equality and Diversity Implications** - The Deferred payment scheme is open to all residents regardless of any potential characteristics which they may have. Due to the nature of residential care and supported living accommodation following publication of the scheme any effects will most likely be upon those who are disabled and elderly and within that group proposals are likely to affect women disproportionately to men mirroring the gender disparity in over 65s residential care and supported living accommodation.

21. The Equality Impact Assessment is set out in appendix 6. The impacts identified in relation to the proposed policy is that it will enable some residents to enter into agreements that will mean they are not required to sell their property, this is a positive impact upon those who may otherwise have to sell their property. The proposal to charge interest and administrative costs is justified as this is to protect the Council's financial interests in relation to the outlay it will make in operating the scheme. It is unlikely that the new policy would wish to be used by those of Islamic faith, since Sharia Law does not allow the charging of interest which is a key element of the Deferred Payments Scheme.

22. **Crime and Disorder Implications** – no implications from this report

23. **Health Implications** – positive impact on residents' mental health and wellbeing as entering into agreements means that the resident is not required to sell their property.

24. **Sustainability Implications** - no implications from this report

25. **Human Rights Implications** - The Policy supports Article 8, a person's rights to respect for their private and family life (including managing their property) by supporting choice. The additional costs are fair and proportionate and will have been freely chosen by the individual. The inclusion of an element of interest does not constitute an infringement of a person's Article 9 right to practice their religion

(because it would not be Sharia compliant) because the Deferred Payment Agreement is voluntary and Sharia compliant financial loans are available thus leaving a person with a choice that is compliant with their religious practice.

26. **Area and Ward Implications** - this report relates to a policy which has borough wide impact.



**GATESHEAD COUNCIL**

**ADULT SOCIAL CARE**

**DEFERRED PAYMENT POLICY FOR CARE AND SUPPORT  
SERVICE**



## **CONTENTS**

1. Introduction
2. Legal Framework & definitions
3. Offering and refusing Deferred Payment agreements
4. The deferred amount and the equity limit
5. The Adult's Contribution
6. Repayment of a deferred amount
7. Termination / refusal to defer charges
8. Refusal to defer
9. Interest
10. Administration costs
11. Terms and conditions
12. Information
13. Disputes and Appeals

## 1. Introduction

- 1.1 The Care Act 2014 establishes a universal deferred payment scheme which means that people will not be forced to sell their home in their lifetime to pay for their care and support.
- 1.2 By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging for them and their loved ones as they make the transition into care.
- 1.3 This document sets out how the deferred payment scheme operates and how Gateshead Council (the Council) will administer its deferred payments scheme.

## 2. The legal framework and definitions

- 2.1 The legal framework includes the following:
  - The Care Act 2014 (sections 34 and 35)
  - The Care and Support (Deferred Payment) Regulations 2014
  - Care and Support Statutory Guidance

Gateshead Council's policies of relevance are:

- Gateshead Council Fees and Charges policy
- Gateshead Council Charging policy

- 2.2 For the purpose of this scheme, the following are defined in accordance with the regulations:

- Care Home means a care home within the meaning given in S3 of the Care Standards Act 2000.
- Supported Living accommodation is accommodation that is not a care home and is defined in s3(2) of the Care and Support (Deferred Payment) Regulations 2014.

## 3. Offering and Refusing Deferred Payment Agreements

- 3.1 The Council will only enter a deferred payment agreement with an adult for amounts due for care and support which the local authority considers to be sufficient to meet the adult's needs.

### When a Deferred Payment Agreement will be offered

3.2 The Council will offer and will enter into a deferred payment agreement where:

- The person is an adult that has needs for care and support.
- The Council agrees to meet those needs by provision of accommodation in a care home under s.18 or 19(1) or (2) Care Act 2014 (or would do so if requested).
- The adult has a legal or beneficial interest in a property which is the adult's main or only home.
- The value of that interest is not disregarded for the purpose of calculating the amount of the adult's capital when the financial assessment rules are applied.
- The adult's capital (excluding their interest in the property) does not exceed £23,250.
- The Council is able to obtain 'adequate security' (as defined by Regulation 4 of The Care and Support (Deferred Payment) Regulations 2014) for the payment of the deferred amount and any interest or administration costs which are treated in the same way as the deferred amount. This will be the case where a charge by way of a legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs is capable of being registered as a first legal charge in favour of the local authority in the land register.
- Genuine and informed consent is given in writing to the creation of a charge that will rank before any interest the person has by anyone with an interest in the land or asset over which a charge will be made or who might prevent the Council from exercising a power of sale or recovering the deferred payment amount.
- The adult agrees to all of the terms and conditions set out in the Deferred Payment Agreement document.

### When a Deferred Payment Agreements may be offered

3.3 The Council may offer a deferred payment agreement to an adult provided the following conditions are met:

- The person is an adult that has needs for care and support
- The Council agrees to meet those needs by provision of accommodation or supported living accommodation in a care home under s.18 or 19(1) or (2) Care Act 2014 (or would do so if requested)
- The Council is able to obtain 'adequate security' (as defined by Regulation 4 of The Care and Support (Deferred Payment) Regulations 2014) for the payment of the deferred amount and any interest or administration costs which are treated in the same way as the deferred amount. This will be the case where a charge by way of a legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs and is capable of being registered as a first legal charge in favour of the local authority in the land register or where other security is available which is considered by the council to

be sufficient to secure payment of the deferred amount and any interest or administration costs.

3.4 In considering whether to offer a deferred payment the Council will take into account the following factors:

- Where meeting care costs would leave the adult with very few accessible assets.
- If the adult would like to use wealth tied up in their home to fund more than just their core care costs and purchase affordable top-ups.
- If the adult has any other accessible means to help them meet the cost of their care and support.
- If the adult is narrowly not entitled to a deferred payment agreement because they have capital of slightly more than £23,250.

The list above is not exhaustive and the Council will have regard to other considerations where appropriate.

#### **4 The Deferred amount and equity limit**

4.1 The amount that will be included in the deferred payment agreement is as defined in Regulation 5 of The Care and Support (Deferred Payment) Regulations 2014.

4.2 The equity limit will be set at 90% of the current market value of the property less £14,250 and less the amount of any encumbrance secured on it which ranks in priority to the Council's charge.

4.3 The Council will treat administration costs and interest in the same way as a deferred amount even after the equity limit is reached.

4.4 The Council may undertake an annual revaluation of the property to ensure that there remains sufficient equity in the property for the deferred amount.

#### **5 The Adult's contribution**

5.1 The Council will allow an adult to retain a 'disposable income allowance' of £144 per week from which contributions towards care costs will not be required. However, a person may, if they wish to do so, pay additional contributions from their disposable income allowance.

5.2 In any week where the adult's income (as calculated in line with The Care and Support (Charging and Assessment of Resources) Regulations 2014) exceeds £144 the Council will not defer an amount due for the provision of care and support to meet the adult's needs in that week for the provision of accommodation in a care home or supported living accommodation. The sum that will not be deferred per week will not exceed the amount by which the adult's income exceeds £144. The adult will be required to pay this sum that is not deferred to the authority or the provider.

## **6 Repayment of a deferred amount**

- 6.1 The deferred amount (including any interest and administration costs) must be repaid on the earlier of:
- The date of sale or disposal of the property over which the Council has a charge
  - 90 days after the death of the adult with whom the agreement is made.
- 6.2 The Council will provide a full breakdown of the total amount deferred to the executor after two weeks from the date of the person's death. Information may be requested prior to this on request.
- 6.3 The executor of the will can decide how the amount due is to be paid; either from the person's estate or from a third party source.

## **7 Termination**

- 7.1 The adult may terminate the deferred payment agreement at any time subject to the conditions below and as detailed in the contract by:
- Giving reasonable notice in writing
  - Making a repayment of the deferred amount including any interest and administration costs.

## **8 Refusal to defer charges**

- 8.1 The Council may refuse to defer any further charges in the following circumstances:
- Where the adult's total assets fall below £23,250 so the person becomes eligible for local authority support in paying for their care
  - Where the person no longer has need for care in a care home (or care in supported living arrangements.)
  - Where the property becomes disregarded under the financial charging regulations so the person qualifies for local authority support in paying for their care.
  - Where the Property can no longer be insured against all the usual risks, unless there are reasonable grounds for concluding that the site value of the property, disregarding any buildings on it, is adequate security for the deferred payment debt.
- 8.2 The Council will cease deferring further amounts when:
- The adult has reached the 'equity limit' that they are allowed to defer.
  - The adult is no longer receiving care and support in a care home or in supported living accommodation
  - The value of the security has dropped and so the equity limit has been reached earlier than expected.

8.3 As set out in paragraph 5.1 an amount may not be deferred in light of the adult's income exceeding £144 in a particular week.

## 9 **Interest**

9.1 The Council will charge interest on all payments that are deferred which will include:

- The deferred amount for care and support.
- Any amounts of interest deferred, unless the adult requests to pay interest separately and not defer it.
- Any administration costs deferred unless the adult requests to pay these separately and not defer them.

9.2 Interest will be treated in the same way as the adult's deferred amount unless a request is made in writing to pay this separately.

9.3 The rate of interest charged will be as set out in the Gateshead Council Fees and Charges Policy.

9.4 Interest will continue to accrue once the equity limit is reached.

9.5 Interest will also continue to accrue after the death of the adult until the deferred amount is repaid to the Council.

## 10 **Administration Costs**

10.1 The Council will make a charge for administration costs in accordance with the following paragraphs.

10.2 The administration costs charges will be as set out in the Gateshead Council Fees and Charges Policy.

10.3 Administration costs will be treated in the same way as the deferred payment amount unless the adult requests to pay them separately.

10.4 Administration costs will include the following:

- Postage, printing and photocopying
- Providing statements
- Staff costs
- Overheads (e.g. computer equipment, utility charges etc)
- Valuation and revaluation fees
- Land registry fees

- Costs incurred in perfecting the security obtained in respect of the deferred amount
- Legal costs and fees
- Costs incurred for ensuring compliance by parties to the terms and conditions in the agreement

10.5 Before entering into a deferred payment agreement the Council will give the adult an estimate of the amount of any administration costs the Council are likely to levy.

10.6 The Council will provide a statement setting out the administration costs incurred before requesting payment for the costs or treating them as a deferred amount.

## 11 Terms and conditions

11.1 The Council's Deferred Payment Agreement document sets out the terms and conditions of the scheme.

11.2 The adult is required to maintain their property and to keep it insured against all losses or damage. Failure to do so may lead to the Council withdrawing support.

## 12 Information

12.1 The Council will provide the adult with a written statement every 6 months during the agreement or within 28 days of a request. This will include information on:

- The amount the adult will have to pay to terminate the agreement, the date of the statement and the amount of any interest and administration costs accrued.
- Details of the interest calculation and the calculation of administration costs.
- The security accepted by the Council
- The maximum amount to be deferred.

12.2 The Council will provide at least 30 days written notice to the adult of the date the equity limit will be reached or if different, where the parties have agreed an amount to be deferred, the date when that will be reached.

## 13 Dispute resolution

13.1 The Corporate Complaints Procedure may be utilised in relation to any disputes arising in relation to matters covered by this policy.

13.2 Where a dispute arises in relation to the Council's valuation of a property or asset the following procedure applies:

- The adult should make representations in writing to the Council's Financial Assessment team. The Council may ask for further evidence and information to support the adult's dispute.
- Where the parties continue to fail to agree a valuation for the property the adult may obtain an independent valuation at their own expense. The local authority will consider this and will respond in writing.
- If agreement is not reached the matter may be referred by the adult to the Corporate Complaints Procedure.
- An appropriate valuation must be agreed prior to proceeding with a deferred payment agreement.



## Options for the charging of Interest

The examples below are based on:

- Compound interest calculation
- Interest calculated annually/6-monthly/Monthly
- Average loan amount of £250 per week (£13,000 annually)
- Interest rate of 2.15% (current maximum prescribed in the regulations) and an alternative of 1.15%
- Property/Equity value £100,000
- Calculated over a period of 6 years

Interest Compound Period	Final Balance	Deposits (per annum at start of year)	Additional Deposits/Withdrawals	Interest Rate	Interest Charge (1st year)	Interest Charged (over 6 years)	Balance >80% of Property Value
Annually	81,200.37	13,000.00	0.00	1.15%	149.50	3,200.37	Year 6
6 Monthly	80,977.61	13,000.00	0.00	1.15%	112.34	2,977.61	Year 6
Quarterly	80,865.90	13,000.00	0.00	1.15%	93.71	2,865.90	Year 6
Monthly (Compound)	80,791.31	13,000.00	0.00	1.15%	81.26	2,791.31	Year 6
Monthly (Annual Comp)	80,777.24	13,000.00	0.00	1.15%	80.98	2,777.24	Year 6
Amount		13,000.00					
Current Rate of Return		0.51%					
Loss on Investment (annually)		66.30					

In summary, for an interest rate of 1.15%, the interest payable over the period ranges between £3,200.37 and £2,777.24, depending on whether interest is applied annually or monthly.

Interest Compound Period	Final Balance	Deposits (per annum at start of year)	Additional Deposits/Withdrawals	Interest Rate	Interest Charge (1st year)	Interest Charged (over 6 years)	Balance >80% of Property Value
Annually	84,084.40	13,000.00	0.00	2.15%	279.50	6,084.40	Year 6
6 Monthly	83,670.97	13,000.00	0.00	2.15%	210.38	5,670.97	Year 6
Quarterly	83,463.11	13,000.00	0.00	2.15%	175.63	5,463.11	Year 6
Monthly (Compound)	80,861.61	13,000.00	0.00	2.15%	152.39	5,324.12	Year 6
Monthly (Annual Comp)	80,562.64	13,000.00	0.00	2.15%	151.40	5,273.26	Year 6
Amount		13,000.00					
Current Rate of Return		0.51%					
Loss on Investment (annually)		66.30					

For an interest rate of 2.15% the amount accrued in interest rises to between £6,084.40 and £5,273.26.

### Options for charging for administering a deferred payment

The regulations provide for administration costs to be charged:

**10.-(1)** The local authority may charge the adult administration costs...

These costs must not exceed the total of costs actually incurred in relation to the deferred payment agreement.

The administration of a deferred payment agreement will include such items as:

- Legal costs and fees
- Stationery costs
- Staff costs in relation to set up, compliance and monitoring
- Valuation fees
- Overheads

There are two options available in the charging of administration costs:

- An average
- The actual costs incurred on a case by case basis

However the council must, before entering into a DPA, give the adult an estimate of the amount of any charge.

The average costs are estimated to be:

Set up costs (including legal fees)	£250.00
Ongoing regular administration costs	£30.00 per annum
One off charges	£20.00 per hour
Account finalisation	£20.00 per hour

Actual costs could result in a charge of between:

Simplest case set up	£171.00
Complex case set up	£372.00
Other charges at an hourly rate of	£20.00 per hour

(In the main, the complexity is from a legal perspective or where the adult delays in complying with the requirements of the scheme.)

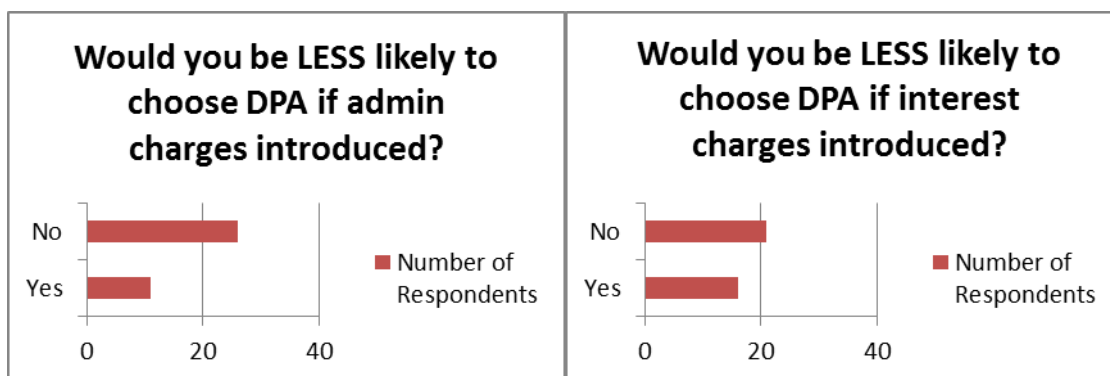
**Deferred Payment Agreements in Gateshead  
Feedback from Consultation – 26<sup>th</sup> January 2016**

**1. Methodology:**

- 1.1 Public consultation on Deferred Payment Agreements (DPAs) commenced on 20th November 2015 and ended on 15<sup>th</sup> January 2016. We allowed for an 8 week consultation period due to it falling over the Christmas holidays.
- 1.2 Consultation consisted of sharing information about deferred payments, eligibility, the proposals for changes and further detail about what the proposed charges would cover. This was accompanied by a short Feedback Form asking 6 questions plus personal characteristics information (Appendix 1).
- 1.3 A consultation and communications plan is also attached (Appendix 2) outlining the methods used to reach service users, partnerships, residents, the community and voluntary sector.

**2. Summary:**

- 2.1 With only 42 responses in total it is difficult to draw robust conclusions from the data. The low response rate can in part be attributed to the complexity of the subject area and the limited numbers who would currently be affected by the charges. However there are some messages that have emerged.
- 2.2 70% of respondents (26 people) highlighted that they would not be deterred from taking up a DPA if admin fees were introduced. Responses were almost equally split with 43% (16 people) saying they would be less likely to take a DPA if interest charges were introduced. Two of the 34 comments we received featured the proposed interest rate charge – both of these suggesting that people should expect to pay interest as “a loan from the bank would not be free of charges.”



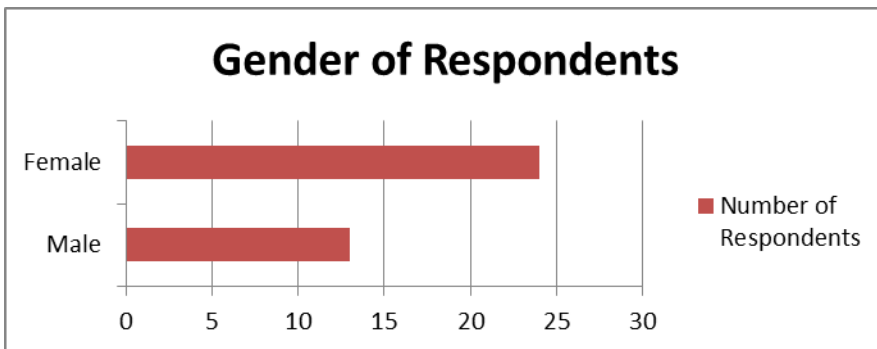
- 2.3 In total people made 34 comments in their feedback in 3 question sections.
- 2.4 Four of the 11 people who made comments about the DPA scheme agreed it was reasonable for Gateshead Council to recover administrative charges when setting up

care arrangements, pointing out that the Council should not foot the bill for people who could afford to pay. Two people were against, one highlighted that clerical staff were already employed the Council so should not seek contributions to their wages from the public. The other 5 comments recorded here were general comments or suggestions about the DPAs.

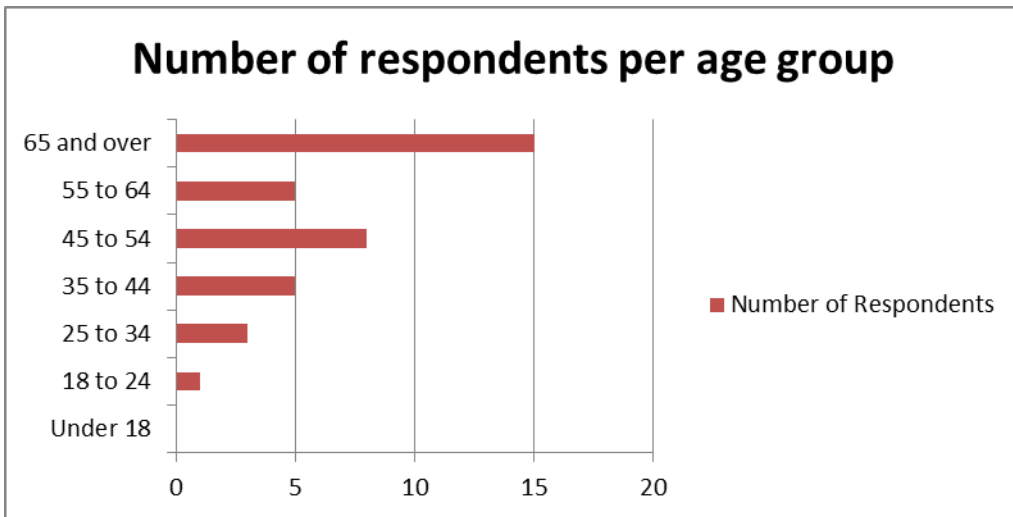
- 2.5 Ten comments were offered when we asked for alternative ideas relating to the charge. Some of these related to how the Council could save money from elsewhere. This is not surprising as the Budget Consultation was also running at the same time containing options to meet the funding gap. Two people felt it unfair to “penalise” those who had worked hard to leave something for their children. Another commented that the Council should safeguard against those who sign their homes over to their children in order to avoid paying care costs. A couple of respondents also felt the Council should manage short term rentals of the property to avoid losing the family home.
- 2.6 Thirteen comments were received when we asked if people had other concerns or comments. Some questions were raised about joint ownership, joint bank accounts, opportunities for renting and where a spouse had died leaving half the house in a will to family members. This identifies further areas to clarify our information when discussing DPAs with individuals and their families. Concern was also noted about how people would meet their care costs in the future.

### 3. Who gave their views?

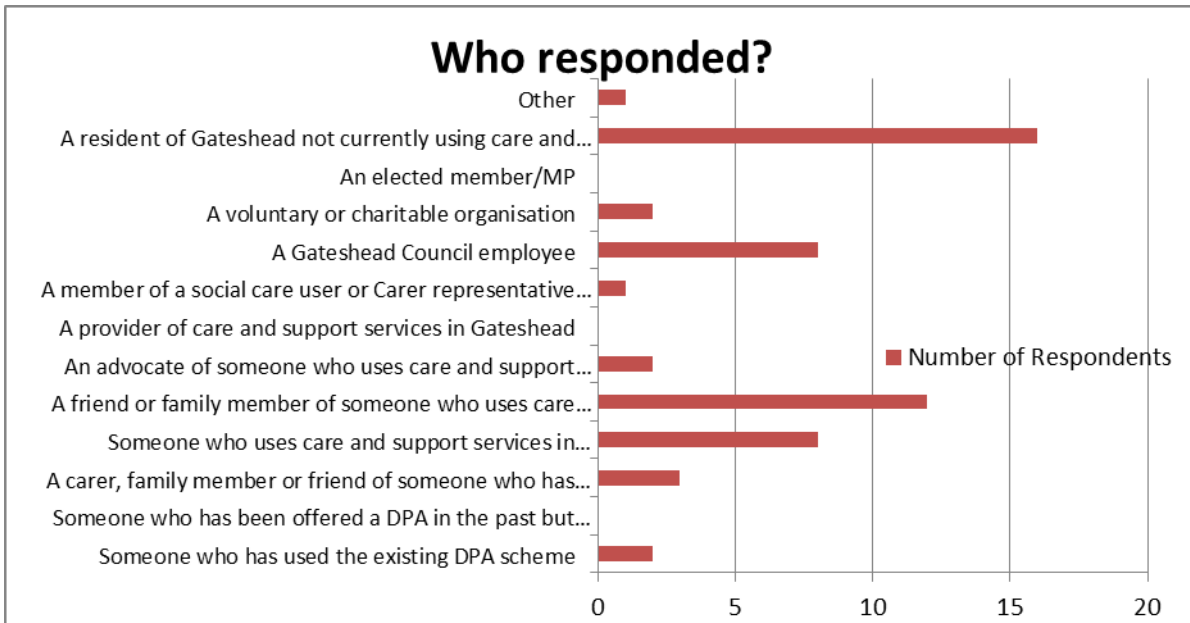
- 3.1 A total of 42 people responded to the survey. Of the total 65% were female and 35% were male. Although this sample is not robust enough to show statistically significant differences, it is possible to use the data qualitatively to give an indication of people’s view regarding a DPA scheme in Gateshead.



- 3.2 97% of respondents were White British with only 3% identifying as Black/Black British. Out of the 42 respondents 73% were Christian, 18% no religion, 6% preferred not to say and 3% as “other” religion. Almost three quarters, 73% said that they do not have a disability and do not look after anyone with a disability – 76%.
- 3.3 More than 40% of respondents were aged 65 and over.



3.4 The majority of people responding were residents of Gateshead who were not currently using care and support services – 40%, followed closely by friends or family members of people who do use care and support services – 30%. People who use care and support services and Council staff each had 8 respondents – 20%.



3.5 The breakdown of respondents by neighbourhood area is shown below:

Neighbourhood Area	Number of Respondents
Central	4
East	6
Inner West	6
South	14
West	6
Out of Borough	1

#### **4. Quotes, queries and questions from Consultation feedback:**

##### **4.1 Alternative ideas or comments relating directly to the DPA proposal:**

- 2 people suggested renting out a property as an alternative way of securing income and safeguards the family against losing the property – “Offer to manage short term rentals of the property and make an acceptable charge.”
- 1 suggestion was that charges should be added at the end and reclaimed once the property is sold as “some services users may not have the funds at the time they are admitted they have it tied up in an asset.”
- 1 suggestion was to “set a maximum term, say 10 years before the property should be sold or acquired by the Council.”
- 1 suggestion was to “add the charges onto the annual Council tax bills on the property - that would save the overheads and guarantee the money is paid.”

##### **4.2 Any other comments or concerns:**

- A number of requests for clarity around joint ownership, joint bank accounts and savings
- 2 people raised concerns about working hard to keep a roof over their family’s heads for many years and now penalising them for trying to better themselves.
- 1 concern about people who sign their assets over to children to avoid paying costs
- 7 comments agreed that people should provide for their own futures; that the Council should recover any costs that it can and a suggestion that people with assets “should pay now rather than later to reduce the current burden.”
- Some people have misunderstood the information given as part of the consultation and made suggestions that are already covered by the scheme such as;
  - “The family should have the right to sell parent’s homes and pay for parent care on a weekly or monthly basis.”
  - “If the debt owed to the Council outweighs the value of the property, would you still charge admin costs?”
  - “Would you consider a flat rate?”
  - “Reduce the resident’s personal allowance.”

#### **5. Response to feedback/Recommendations:**

How the consultation feedback will be used to shape the overall policy proposals:

- 5.1 Colleagues from Finance and Legal have had the opportunity to see an overview of the responses to the consultation.
- 5.2 Despite a low response the view appears to be to agree with administration and interest charges.
- 5.3 The individual comments made, whilst useful, would not change the DP policy as the concerns are all covered in regulations or within the policy anyway.
- 5.4 The individual comments will be considered when producing information about the scheme to clarify the issues people have made during the consultation.

**6. Recommendation:**

The consultation responses would not change the proposed policy. We therefore recommend moving forward on that basis with the policy as it is, agreeing to charge admin costs and to charge interest.



## Equality Impact Assessment Initial Screening Pro-forma (Stage 1)

The purpose of this initial assessment is to analyse whether a new or substantially revised policy, strategy, function or budget proposal is likely to have significant negative impact in terms of equality and therefore require a full Equality Impact Assessment (Stage 2). *If you are already aware that a full assessment is required, there is no need to complete Stage 1.*

<b>Group:</b>	<b>Service:</b>	<b>Section:</b>	<b>Officer responsible for assessment:</b>
Page 32 Support officers:	<b>Completion date:</b>		
	<b>Review date:</b>		
<b>(1) Name &amp; purpose of the policy, strategy, function or budget proposal:</b> Briefly describe the aims, objectives and purpose of the policy/function or budget proposal	Deferred Payments Policy The council is required to have in place a scheme for clients so they do not have to sell their home in their lifetime to pay the costs of their care, effectively deferring payment to some date in the future. The council can charge the costs it incurs in running the scheme and propose to charge an administrative fee and interest in accordance with the governing regulations.		
<b>(2) Is this new or existing?</b>	The power to charge an administrative fee and interest are new powers conferred by the Care Act. However the Council has been offering Deferred Payment Agreements previously		



<p><b>(3) Who are the main customer groups affected by this policy, strategy, function or budget proposal and has there been prior consultation undertaken?</b></p>	<p>Anyone who requires permanent care and support in a residential care setting who owns or part owns a property that is assessable as capital.  The client groups affected include  (1) (1) Working age clients with physical or mental disability; Older people going into permanent residential care; of which the majority would be female.  Consultation was undertaken 20/11/15 – 15/01/16.</p>
---	---

**(4) Using the table below please consider the impact of the policy, strategy, function or budget proposal on the protected characteristics as identified in the Equality Act 2010. If you have identified negative impact then a full EIA will need to be completed. Please note Question 5 should be answered in relation to impact on employees.**

Protected Characteristics	Assessment of Potential Impact (delete as appropriate)	Reason for this Assessment	Are there any mitigating circumstances?
Age	/Neutral	A positive effect is that older people will not be forced to sell their property, possibly at a bad time to fund care. A negative is that this will incur costs and interest. However the interest and costs are substantially less than comparable products on the financial market	no
Disability	/Neutral	see above	
Race	Neutral	no impact	
	Positive/Negative/	Because of the gender imbalance	

Gender (includes gender reassignment)		within the group of elderly clients accessing permanent care, there will be a greater impact upon female clients. There is no gender imbalance within disability groups	
Pregnancy & Maternity	/Neutral	No impact	
Sexuality	/Neutral	No impact	
Religion or belief	Neutral	Followers of Sharia law would not be able to use the Deferred Payment Agreement because of the element of interest	Sharia compliant loans are available from financial institutions
Marriage & civil partnership	Neutral	No impact	

**(5) Impact on Council Employees**

Please indicate which of the protected characteristics your assessment has identified as being of relevance:

Age  Disability  Race  Gender (inc. gender reassignment)

Pregnancy & Maternity  Sexuality  Religion or belief  Marriage & civil partnership

None

Reason:

Page 35

## **(6) Evidence and Engagement**

**Please use this section to detail the information that you have considered to assess the service for its relevance to equality eg data, research, engagement etc.**

We have used information from CareFirst and other Council records.

The JSNA

Other public information on demographic and population trends

We have consulted service users, their carers and other interested group in a consultation exercise.

The results of the consultation are annexed to the Cabinet report. Broadly it showed that service users did not object to paying the moderate level of administrative charge and interest proposed by this policy.

Gateshead JSNA – Frailty Data

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Needs-Assessment-by-Life-Course/Older-people/Frailty/Gateshead-data.aspx>

Population

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Topics/Population-and-Deprivation/Demography/Demography.aspx>

Older People's Health Profile

<http://fingertips.phe.org.uk/profile/adultsocialcare/data#gid/1000105/pat/6/ati/102/page/1/par/E12000001/are/E08000037>

Learning Disabilities

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Topics/Communities-of-Interest/Learning-Disabilities/Learning-Disabilities.aspx>

Physical Disabilities

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Topics/Communities-of-Interest/Physical-Disabilities/Physical-Disabilities.aspx>

<b>(7) Should this policy, strategy, function, or budget proposal proceed to a Stage Two EIA?</b>	<b>No</b>  If yes is this because: <ol style="list-style-type: none"> <li>1. Negative impact identified</li> <li>2. Need better monitoring data</li> <li>3. Need other information</li> <li>4. Possibility to promote equal opportunities and good inter-group relations.</li> </ol>	Date Stage Two EIA to commence:
		Target date for completion of Stage Two EIA:

**SIGNED:**  
**Completing Officer**

**SIGNED:**  
**Service Director**

**SIGNED:**  
**Strategic Director**

This page is intentionally left blank



**COUNCIL MEETING**

**17 March 2016**

**2016 – 2017 STATUTORY INTERVENTION PLAN FOR THE FOOD  
CONTROL AND HEALTH AND SAFETY SERVICES**

---

**Jane Robinson, Chief Executive**

---

**EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of the Intervention Plan for the Food Control and Health & Safety services for 2016 -2017.
2. It is a statutory requirement that the Intervention Plans for these services are considered and approved on an annual basis.
3. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

**RECOMMENDATIONS**

4. It is recommended that Council approve the Intervention Plan for the period 1 April 2016 – 31 March 2017

This page is intentionally left blank



**TITLE OF REPORT:** 2016 - 2017 Statutory Intervention Plan for the Food Control and Health & Safety services

**REPORT OF:** Paul Dowling, Strategic Director, Communities and Environment

---

### **Purpose of the Report**

1. The report asks Cabinet to consider and recommend the Council to approve the Intervention Plan for the Food Control and Health & Safety services for 2016 - 2017.

### **Background**

2. It is a statutory requirement that the Intervention Plans for these services are considered and approved on an annual basis.
3. The information required in the Health and Safety Service Intervention Plan is directed by the 'Section 18 Standard on Enforcement' of the Health and Safety at Work Act 1974.
4. The information required in the Food Control Service Intervention Plan is directed by the requirements of the Food Standards Agency (FSA) Framework Agreement on Feed and Food Controls by Local Authorities.
5. An Executive Summary of the Intervention Plan is attached at appendix 2. Full details of the Plan can be viewed online within the agenda folder for this meeting and hard copies are available in the Members' Room.

### **Proposal**

6. It is proposed that the Intervention Plan for the period 1 April 2016 to 31 March 2017 be approved.

### **Recommendations**

7. It is recommended that Cabinet recommend the Council to approve the Intervention Plan for 2016 – 2017.

For the following reason:

To ensure that effective and appropriate enforcement strategies and sources are allocated to deliver the mandatory duties placed on the Council as the enforcing authority for the regulation of businesses.

---

## APPENDIX 1

### Policy Context

1. The work of the Health and Safety Service is directly linked to the refreshed 'Vision 2030' Gateshead's Sustainable Community Strategy and to the Council Plan in particular through promoting and maintaining good standards of occupational health, safety and welfare within the workplace environment.
2. The work of the Food Control Service is directly linked to the refreshed 'Vision 2030' Gateshead's Sustainable Community Strategy in particular by ensuring the safety, hygiene and standards of food produced, supplied and consumed in Gateshead and by controlling food and water-borne illness. The service also gives help and advice to small business leading to sustainable economic growth of small business.

### Background

3. Gateshead Council is an Enforcing Authority under both food safety and health & safety law and has mandatory, statutory responsibilities to enforce the relevant legislation.
4. The Government's National Priorities (as identified in the Rogers Review 2007) include:
  - 'Improving health in the workplace' because of 'the high risks posed to individuals, their families, business and the costs to the economy'
  - 'The hygiene of businesses selling, distributing and manufacturing food and the safety and fitness of food in the premises' because of the high impact in terms of numbers of deaths and ill health caused by unhygienic food businesses and the high costs to the economy
5. Development and Public Protection considers the Government's Better Regulation agenda when planning and delivering its services

### Consultation

6. The Cabinet Members for Environment & Transport and Communities have been consulted.

### Alternative Options

7. The Plan is based on delivery of the minimum interventions required to meet the statutory responsibilities placed on the Council using the resources currently allocated to the services.
8. Failure to deliver the minimum interventions is not an option.
9. Delivery of a more comprehensive Intervention Plan would require additional resources.

## Implications of Recommended Option

### 10. Resources

- a. **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report.
- b. **Human Resources Implications** - There are no human resource implications arising directly from this report.
- c. **Property Implications** - There are no property implications arising directly from this report

11. **Risk Management Implications** – Failure to deliver statutory responsibilities may result in government intervention.

12. **Equality and Diversity Implications** – An Equality Impact and Needs Assessment of these plans has indicated a neutral impact.

13. **Crime and Disorder Implications** – There are no crime and disorder implications arising directly from this report.

14. **Health Implications** - These statutory services have an important role in preventing ill health and harm and reducing health inequalities.

- The food service protects public health through the control of the spread of acute and chronic illness and by ensuring a safe, healthy and sustainable food chain.
- Enforcement of health and safety aims to prevent harm and ill health in the workplace. Tackling injuries and ill health at work benefits workers, businesses and society as a whole.

15. **Sustainability Implications** – There are no sustainability implications arising directly from this report.

16. **Human Rights Implications** – There are no human resource implications arising directly from this report.

17. **Area and Ward Implications** - This report affects all wards equally

## Background Information

- Section 18 'Standard on Enforcement', Health and Safety at Work etc Act 1974.
- Framework Agreement on Feed and Food Controls by Local Authorities, Food Standards Agency

**EXECUTIVE SUMMARY**

Despite reduced resources the Environmental Health Team of the Council still responds to over 700 accidents, food poisonings and complaints and undertakes over 1300 interventions each year in a wide range of premises in order to build stronger, healthier, prosperous and sustainable businesses.

The Food Standards Agency (FSA) as part of its national food safety framework agreement requires all Local Authorities to prepare a service plan which sets out how the official controls will be delivered.

The Health and Safety Code (The Code) requires Local Authorities to be transparent in their enforcement role. In order to achieve this we need to publish our intervention plan and report on our performance against that plan.

This plan sets out the overall aims of the Environmental Health Team and how the Council will deliver the food safety and health and safety enforcement functions in the financial year 2016/2017.

The plan describes the profile of businesses in the borough and the way in which this determines how the intervention programmes are planned.

It also describes the nature of service requests received and how they are managed and responded to within the service.

The resources allocated to deliver the service are set out for 2016/2017 and the ways in which business and customer satisfaction are monitored and maintained.

The plan includes a review of the work of the Environmental Health Team in 2015/2016 and the priorities and plans for the coming year. It includes details of the audit of the service carried out by the Food and Veterinary Office and the inter authority audit of the FHRS scheme operated in Gateshead.

**Development and Public Protection**

**Service Plan for the Health & Safety and Food Control Services  
2016/2017**



# Gateshead Council

## Service Plan for the Health & Safety and Food Control Services 2016/2017

### Contents

Foreword	4
The Code	4
Lord Young Common Sense, Common Safety Report 2010	4
Elliot Review	4
Smoke Free Cars	5
Carrier Bags	5
Audits	5
Introduction	5
1. Service Aims & Objectives	7
1.1 Aims	7
1.2 Objectives	7
1.3 Links to Corporate Objectives	8
1.4 Vision 2030	8
2. Background	8
2.1 Profile of the Local Authority	9
2.2 Organisational Structure	10
2.3 Specialist Services	10
2.4 Premises Profile	10
2.4.1 Health and Safety Premises	10
2.4.2 Food Premises	11
2.5 Client Profile	12
3. Service Delivery	12
3.1 Proactive Work	12
3.1.1 Health and Safety	12
3.1.2 Food Safety	14
3.1.3 Food Standards	15
3.1.4 Feed Safety	15
3.2 Service Requests	16
3.2.1 Health and Safety	16
3.2.2 Food Safety	16
3.3 Home Authority Principle and Primary Authority Principle	16
3.4 Advice to business	17
3.5 Food sampling	17
3.6 Control and investigation of outbreaks and food related infectious disease	17
3.7 Food safety incidents	18
3.8 Statutory Notifications	18
3.9 Registrations	19
3.10 Licensing Applications	19
3.11 Business training and information	19
3.12 Liaison and Partnerships	19
4. Resources	20
4.1 Finance	20

4.1.1	Expenditure	20
4.1.2	Income	21
4.2	Resources	21
4.2.1	Management	21
4.2.2	Operational	21
4.2.3	Competence	22
4.2.4	Overall Resource Required	22
4.3	Staff Training and Development	23
5.	Quality Assessment	23
6.	Review	23
6.1	Health and Safety	24
6.2	Food Safety	24
7.	Service Improvements	25
7.1	Health & Safety	25
7.2	Food	25
7.3	Service Priorities	26

## **Foreword**

The work of the Environmental Health Team is governed by various Acts of Parliament, Official Government Guidance and reports. The main legislation covering the teams work is the Food Safety Act 1990 and the Health and Safety at Work etc. Act 1974. The team is also monitored and reports to the Food Standards Agency and the Health and Safety Executive. The following are some of the most recent reports that directly impact on the work of the team.

### **The Code**

The National Local Authority Enforcement Code (The Code) relates to the health and safety service and was published in 2013 by the HSE. It has been developed in response to a recommendation by Professor Löfstedt, for the HSE to be given a stronger role in directing local enforcement of health and safety. It is also an outcome of the Red Tape Challenge on Health and Safety. It is designed to ensure that local authority (LA) health and safety regulators take a more consistent and proportionate approach to enforcement. Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, LA health & safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to a wider public health agenda.

The Code requires that LAs use the full range of regulatory interventions available to influence behaviours and the management of risk with proactive inspection utilised only for premises with higher risks or where intelligence suggests that risks are not being effectively managed. The Code provides direction to LAs on meeting these requirements, and reporting on compliance. The Code is mandatory for LAs to follow and provides suggestions for activities and sectors that are suitable for proactive inspection.

### **Lord Young Common Sense, Common Safety Report 2010**

This report includes issues which have implications for local authorities and particularly the regulatory functions of health and safety and food safety. It recommends reducing bureaucracy associated with unnecessary health and safety and insurance requirements and tackles the compensation culture. It advocated the introduction of a register for competent health and safety consultants and hopes to reverse the risk averse approach that is seen to hamper children's development. The report reinforces the move towards risk based inspection, recommending the removal of many burdens on low risk premises, the voluntary sector and the self employed along with improved, accessible and tailored advice and guidance. It supports the ethos of earned recognition, advocating Primary Authority and recommending an enhanced HSE role for large multi-site retailers. It recommends the combination of health and safety and food inspectors in local authorities and supports the opening up of the inspection regime to accredited certified bodies.

### **Elliot Review**

Following the horse meat scandal early in 2013, the Government tasked Professor Elliott to review the various information, reviews and some of the evidence relating to the scandal. The report was published in September 2014 and impacts on how the service operates in the future. The report raises a number of recommendations that the Government are looking at implementing. The report recommends that consumers are put first and there is a zero tolerance approach to food fraud. Intelligence about food fraud should be more widely shared. The report makes recommendations about the laboratory services and the value of sampling regimes. Independent auditing of the food industry is seen as valuable and should be encouraged, providing the audit has measures to identify and eliminate food fraud. The Government must support a co-ordinated approach to food law enforcement and look to



creating a new food law crime unit. The Government must also have in place procedures for dealing with a serious food safety or food crime incident.

### **Smoke Free Cars**

In October 2015 new legislation on cigarette smoke came into force in England. The law requires all cars carrying people under the age of 18 to be smoke free. The team have a joint enforcement responsibility with the Police. The aim of the legislation is to reduce the exposure of young children to second hand cigarette smoke. The main method of enforcement for the team will be the use of fixed penalty notices served on the driver for allowing somebody to smoke in a car with an under 18 present.

### **Carrier Bags**

Another piece of new legislation was the introduction of the charge for carrier bags in large retail organisations. The Climate Change Act 2008 allowed for the Single Use Carrier Bags Charges (England) Order 2015, which makes it mandatory for businesses employing more than 250 people to make a charge of 5p for any plastic carrier bags issued to customers. It is expected that the money will be donated to worthy causes.

### **Audits**

The food service has been subject to two audits during the year. The first audit was carried out by the Food and Veterinary Office as part of a Europe wide audit of the official controls on soft fruit and vegetables. The audit in Gateshead looked at the production of bean sprouts. As this was part of a wider audit across Britain an report about Gateshead was not produced. However, the auditors did raise a few points about the official controls used at the premise, but overall were pleased with the work officers had carried out.

The second audit was an inter authority audit into the implementation of the Food Hygiene Rating System. The auditors found that there were elements of good practice, particularly the use of a business advice sheet, given to the food business operator after each intervention. However, the Council needs to prioritise the progress towards getting the E rated businesses on the National Database.

### **Introduction**

Last year the Environmental Health Team of the Council responded to over 900 accidents, food poisonings and service requests. We also undertake over 1300 interventions in a wide range of premises in order to build stronger, healthier, prosperous and sustainable businesses.

Nationally there are over a million cases of food poisoning each year, 20,000 hospitalisations and 500 deaths. This costs the economy £1.5 billion each year. 28.2 million working days were lost in 2013/14 due to work related illness or injury, 133 workers were killed at work. Workplace ill health and injury cost society £14.2 billion in 2013/14.

The Food Standards Agency (FSA) as part of its national food safety framework agreement requires all Local Authorities to prepare a service plan which sets out how the official controls will be delivered.

The Health and Safety Code (The Code) requires Local Authorities to be transparent in their enforcement role. In order to achieve this we need to publish our intervention plan and report on our performance against that plan.

Gateshead Council is responsible for the enforcement of food safety legislation in approximately 1600 premises and health and safety law in approximately 3000 premises. Our food premises

range from food manufacturers to retailers and restaurants, whilst health and safety covers the service industries including warehouses, retail premises, hotels and leisure facilities.

This plan sets out how the Council will deliver the food safety and health and safety enforcement functions in the financial year 2016/17. The details concerning the time required for each element is in officer days. Each full time officer has 220 days available for carrying out their duties.

To ensure local transparency and accountability, to show the service's contribution to Vision 2030 and to meet the requirements of the FSA Framework Agreement this plan is approved by Members on behalf of Gateshead Council.

The plan highlights that the team does not have the necessary resources to complete all of the required works. The team will therefore prioritise work on a risk basis. Inspections will be targeted at high risk and poor performing businesses. For low risk businesses a system of alternative interventions will be used, including questionnaires, sampling visits, monitoring checks and checks by other teams during their visits. New food businesses will be asked to complete a questionnaire so that their initial visit can be prioritised.

# 1. Service Aims & Objectives

## 1.1 Aims

We aim to:

- Ensure that food produced, sold or consumed in the borough is safe to eat and that businesses comply with food law;
- Protect the safety, health and welfare of people at work in Gateshead and to safeguard others who may be exposed to risks from the way that work is carried out; and
- Improve working conditions in the Borough through a programme of workplace inspections and self assessment, and accident, incident and complaint investigation.

## 1.2 Objectives

To achieve these aims we have the following objectives:

- Deliver the official controls on food law as set out in the FSA Framework Agreement
- Ensure food is safe, fit to eat and free of contaminants
- Protect consumers from food fraud
- Improve compliance in food businesses using advice, guidance and when necessary enforcement
- Maintain an accurate database of food establishments
- Carry out a programme of food safety interventions at a frequency appropriate to risk
- Respond effectively to complaints relating to food and water
- Ensure that readily accessible advice and assistance is available to businesses and the public
- Carry out the annual sampling programmes for microbiological examination and compositional analysis, including participation in regional and national surveys
- Regularly survey imported food to prevent unsafe or illegal food from entering the market
- Approve establishments for handling products of animal origin as required
- Carry out surveillance of suspected and confirmed illness that has the potential to be food or water borne and implement control measures to prevent further illness
- Enforce a wide range of relevant health and safety legislation.
- Establish and maintain a planned inspection programme based on a risk-based priority planning system to select premises for inspection.
- Develop a range of campaigns and intervention programmes aimed at both specific business sectors and specific business risks to improve health and safety.
- Investigate complaints from the public about health and safety issues
- Investigate notified accidents, incidents and cases of occupational ill-health
- Advise, educate and assist businesses to comply with legal obligations and promote self-regulation using self-assessment tools.
- Administer and regulate statutory permission and registration regimes for specific work activities linked to health risks, such as
  - The Control of Asbestos at Work Regulations 2006
  - Gateshead Byelaws for the registration of practitioners and premises carrying on the practice of Acupuncture and the business of Tattooing, Semi-Permanent Skin Colouring, Cosmetic Piercing and Electrolysis.

- Promote issues in the Government White Paper, 'Choosing Health' by improving working conditions to reduce the causes of ill-health related to work, promote the work environment as a source of better health and support 'Smoke Free Gateshead'
- Work closely with businesses including Workplace Health and Safety Representatives and Trade Union Representatives
- Support the principles of the Primary Authority Scheme to improve regulatory consistency and reduce burdens on business.

### 1.3 Links to Corporate Objectives

The Council Plan 2015-2020 sets out how the Council will achieve its aims and objectives. The Environmental Health team contributes in many areas of delivery, in particular:

- **People** The Food Service has a major role to play in ensuring a healthier community. We help businesses grow and develop and improve the service they provide by offering help and advice, this in turn provides more jobs and reduces financial exclusion and child poverty. The voluntary sector also receives help and advice from the team and helps develop stronger communities. By reducing accidents and improving food standards we are helping to reduce health inequalities and adding years to life. We work closely with Adult Social Care to safeguard our elderly residents in care homes across the borough and our work with the schools meals service helps safeguard our children at school.
- **Place** the team has an active role in the Virtual Rural Economic Strategy Team, providing advice and guidance on businesses and improving the rural economy. The team inspects the mobile and permanent traders that operate in our parks and open spaces, improving the facilities available to visitors.

### 1.4 Vision 2030

The work of the Food Service is directly linked to 'Vision 2030', Gateshead's Sustainable Community Strategy and the heart of an ambitious long term plan developed by Gateshead Strategic Partnership following extensive consultation. The most relevant of the 'Six Big Ideas' within Vision 2030 to the team is '**Active and Healthy Gateshead**'

What we eat can make a big difference to our health and the Food Service plays a key role in diet and nutrition by checking the accuracy of food composition and labelling through the sampling programme. This helps people to make healthy choices based on accurate product information. We can also help raise Gateshead's profile - for example, by making sure that restaurants and hotels meet the legal standards and produce safe food for visitors and residents.

Good health is fundamental to well-being and long life and the annual inspection programme helps to ensure that food safety standards are met and workplaces are safe and healthy.

The web based initiative known as the Food Hygiene Rating Scheme places food hygiene information into the public domain and encourages food business operators to achieve higher hygiene ratings

## 2. Background

The service is a statutory function enforcing food safety and health and safety legislation across Gateshead. By using a variety of interventions and techniques we are seeing a sustained improvement in food safety levels, indicated by the increasing numbers of food businesses rated as 5 in the Food Hygiene Rating System. With over 900 accidents, food poisonings and complaints per year to respond to and over 1300 interventions we are constantly looking for ways to improve our service and be more efficient.

## **2.1 Profile of the Local Authority**

Gateshead Council is one of five historical Tyne and Wear borough councils. It has the largest area of 55 square miles and the 22 wards cover a mix of urban and rural environment with a population of approximately 200 000. The borough stretches for 13 miles along the south bank of the River Tyne.

Gateshead is an area with exciting new developments including progress toward a modern, vibrant town centre with the Trinity Square Development and further development of the Gateshead Quays, which already includes the Baltic Centre for Contemporary Art and the Sage Gateshead.

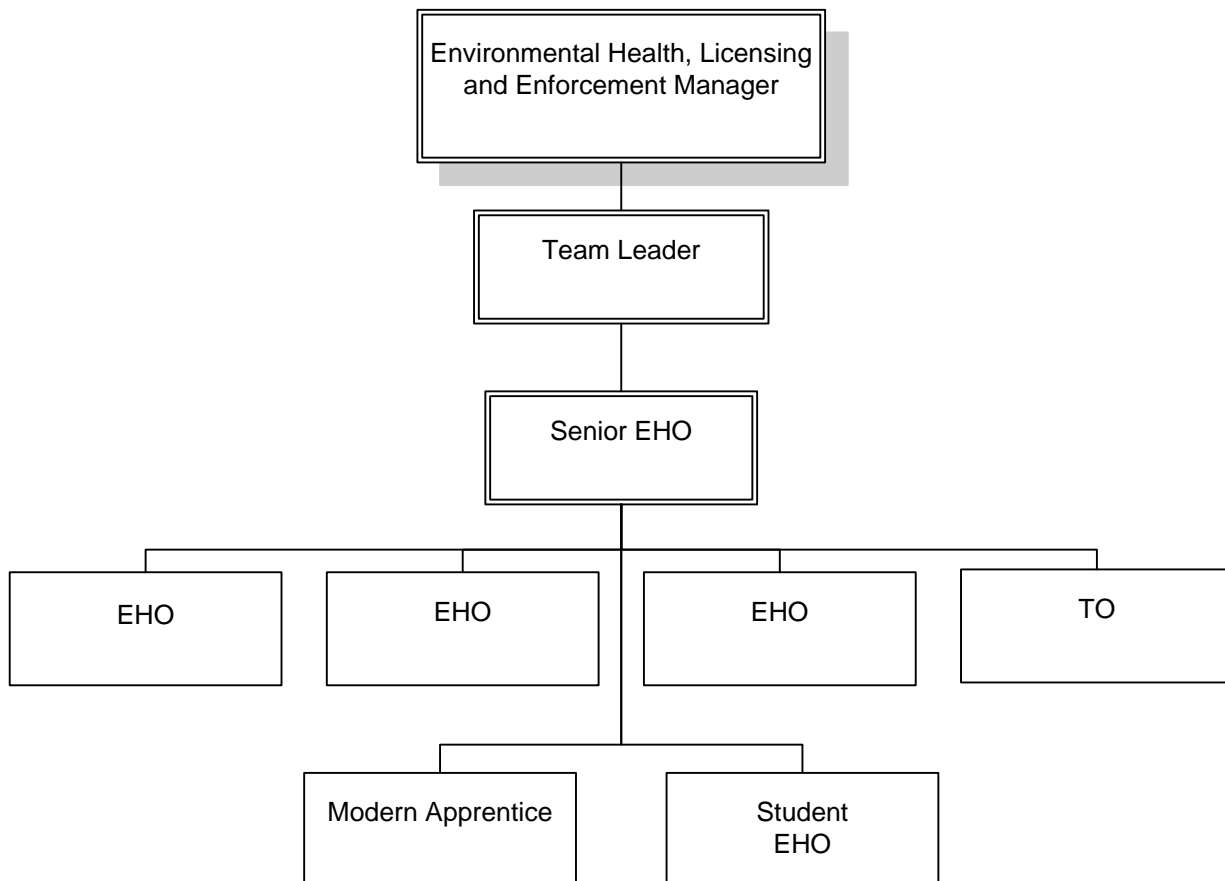
Gateshead also includes:

- The Metrocentre, one of Europe's largest indoor shopping and leisure complexes
- The Team Valley Trading Estate, home to over 650 companies and includes the Retail World shopping area
- Gateshead International Stadium
- Gateshead College

The Team is based at the Civic Centre in Gateshead with office hours being from 0830 to 1700 hours. Members of the Team voluntarily provide an unofficial out-of-hours service to carry out interventions and investigations that cannot be achieved during office hours.

The Council operates a 24 hour emergency response through Care Call, and Development & Public Protection have arrangements in place for Care Call to be able to contact a relevant officer in case of emergency outside normal office hours.

## 2.2 Organisational Structure



There are no planned structural changes to the team in 2016/17, however an EHO is due to begin maternity leave in May. This will impact on the service and is likely to be reflected in a reduction in the routine work carried out. It is planned that the graduate EHO currently working on the team will be maintained to cover the period of maternity leave, but will be unable to inspect higher risk businesses. The Team sends regular reports to the Transport & Environment/Employment & Skills Portfolio and Adult Social Care & Healthier Communities Portfolio.

## 2.3 Specialist Services

The Environmental Health Team works closely with the following specialist services:

- Public Analysts - Alan Richards, Public Analyst Scientific Services Ltd and Nigel Payne
- Infectious Disease Control – Public Health England (Proper Officer: Dr Roberta Marshall)
- Microbiology laboratory – Public Health England (North East Region Environmental Laboratories)

## 2.4 Premises Profile

### 2.4.1 Health and Safety Premises

The Health and Safety (Enforcing Authority) Regulations allocates enforcement responsibilities between Local Authorities and the HSE. Premises profiles fluctuate throughout the year due to businesses opening / closing and changes in use. The service database is updated with any changes as they become evident.

<b>Local authority enforced business classifications</b>	<b>2015/16</b>	<b>2016/17</b>	<b>Change</b>
Retail Shops	1046	1020	-26
Wholesale shops, warehouses and fuel storage	301	301	0
Offices	614	609	-5
Catering, restaurants and bars	546	560	+14
Hotels, campsites and other short stay accommodation	34	34	0
Residential care homes	68	70	+2
Leisure and cultural services	115	119	+4
Consumer services and membership organisations	429	426	-3
Other premises	19	20	+1
<b>Total</b>	<b>3172</b>	<b>3159</b>	<b>-13</b>

## 2.4.2 Food Premises

Particular local requirements include:

- 4 companies currently have approval for handling products of animal origin.
- Major retail, wholesaling, and warehousing complexes, including the Metrocentre and the Team Valley Trading Estate.
- Several large food producers including Kavli, Northumbrian Fine Foods, Paradise Foods, Dalziels and Beckleberries.
- The Queen Elizabeth Hospital cook-chill production unit.
- Third country importers, including Traidcraft (specialising in fairly traded goods).
- Specific needs of various ethnic groups.

<b>Type of Premises</b>	<b>2015/16</b>	<b>2016/17</b>	<b>Change</b>
Primary Producer	1	1	0
Manufacturers and Packers	58	55	-3
Importers/Exporters	3	3	0
Distributors and transporters	58	59	+1
Supermarket/Hypermarket	35	36	+1
Smaller retailers	314	309	-5
Retailers - Other	25	43	+18
Restaurants/café/canteen	237	252	+15
Hotel/Guest house	30	29	-1
Pub/Club	209	205	-4
Takeaway	236	228	-8
Caring establishment	102	104	+2
School/College	89	91	+2
Mobile food unit	64	75	+11
Restaurant and caterers - other	150	142	-8
Other		10	+10
<b>TOTAL</b>	<b>1611</b>	<b>1642</b>	<b>+31</b>

## **2.5 Client Profile**

The client profile for the service is wide-ranging and varied, being based around all Local Authority enforced businesses and all food businesses.

Our clients include those who make a request for service (complaints or advice) about these, or proposed businesses. This will include owners, employees, managers, trade union/employee representatives, customers, residents and visitors. We appreciate the various and diverse needs of these people will affect how we work with them – issues such as language, experience, education, disability, age, time available can all make a difference.

Our database allows us to identify information about businesses that enables specifically targeted work. For example, we can group them by businesses classification/type, geographical area and business name.

We also respond to specific health and safety queries. For example, providing health and safety information and advice to students and other local authorities and investigate smoking complaints in ALL businesses and vehicles.

Our customers include Government departments, regulatory bodies such as Health and Safety Executive (HSE), Fire Authority, Police Authority, other teams within Gateshead Council, other local authorities and agencies such as Public Health England (PHE), Local Government Regulation (LGA) and Chartered Institute of Environmental Health (CIEH). Some of these are also our partners.

We also assist the Director of Public Health in achieving some of her targets with respect to infectious disease, smoking and workplace health.

## **3. Service Delivery**

### **3.1 Proactive Work**

The intervention programme is continually monitored and reviewed by Lead Officers in the Team with the following factors being assessed:

- Most appropriate intervention for risks associated with a business
- Qualifications, experience and competency of the officer carrying out an intervention
- Additional intelligence that may be gathered during the year (food fraud, illegally imported food, accidents)
- Use of unscheduled interventions for increased risks or newly identified hazards
- New businesses added to the programme.

#### **3.1.1 Health and Safety**

HELA LAC 67/2 (rev 4.1) provides guidance for priority planning of inspections through a risk rating system. Officers score premises based on four risk elements and assign a rating value to each of these elements:

- Confidence in management
- Health performance
- Safety performance
- Welfare standards



The system then categorizes the risk the premises pose as high (A), medium (B1/B2) or low (C), and identifies an intervention frequency for A and B1.

LAC67/2 does not give an intervention frequency for B2 and C - although ignoring these is not an option, we do not routinely visit these premises unless we are visiting for other reasons i.e. a food safety intervention.

We have therefore decided an intervention frequency not less than 3 yearly for B2 and 5 yearly for C. This takes into account the number of premises in these categories, the resources available for delivering the service plan and local/ historical knowledge of the premises database.

All intervention visits contain an element of smokefree enforcement and officers will check for compliance with the legislation.

The types of interventions for all premises are directed by the Code. Broadly these fall into two groups, proactive and reactive. The two groups include a number of different options and include:

**Proactive interventions:**

- Partnership
- Motivating senior managers
- Supply chain
- Design and supply
- Sector and industry wide initiatives
- Working with those at risk
- Education and awareness
- Inspection
- Intermediaries
- Best practice
- Recognising good performance

**Reactive interventions:**

- Incident and ill-health investigation
- Dealing with issues of concern that are raised and complaints

A traditional inspection is reserved for only a very small number of premises, so the majority of interventions will come from the other options.

Low risk businesses are unlikely to be visited, but will receive a self assessment questionnaire and written advice on how to improve their health and safety performance. These businesses will then be able to request an advisory visit if they so wish.

All other businesses will receive a face to face intervention from one of the above categories. The Code provides for a number of industry wide initiatives to promote safety in high risk areas.

HSE Category	Rating score	Intervention frequency (set by LAC 67/2 rev 3; or Gateshead)	Total on database	Due in 2016/17	Time Required (Days)
A	5 or 6 on any risk	Inspect not less than once per year	0	0	0
B1	4 on any risk	Premises for intervention. Premises without an intervention within 18 months to be reviewed	1	1	1
B2	3 on any risk	Premises for intervention. Gateshead standard is an intervention not less than every 3 years	223	156	21
C	No score greater than 2	Assess premises, but suitable for non-inspection intervention methods\ techniques. Gateshead standard is an intervention not less than every 5 years	2706	937	63
Unrated	Unknown	Gateshead standard is an intervention according to the perceived priority	229	230	31
Total			3159	1324	116

### 3.1.2 Food Safety

The Food Service uses the FSA's intervention rating scheme to determine the frequency that food premises should receive an intervention. This ensures that all premises are visited at an appropriate minimum interval determined by their risk rating.

Interventions are defined as activities that are designed to monitor, support and increase food law compliance within a food establishment. They include, but are not restricted to:

- Inspections (full and/or partial) and audits
- Monitoring
- Verification and surveillance
- Sampling where the analysis/examination is carried out by an Official Laboratory.

The tables below show how many premises the Service has in each risk category on 1 April 2016, together with the projected number of interventions required during the financial year:

FSA Risk Category	Minimum intervention frequency	No. on database	Projected interventions due 2016/17	Bought forward from 2015/16	Time Required (Days)
A	6 months	4	8	0	16
B	12 months	31	24	7	31
C	18 months	347	130	184	157
D	24 months	593	177	120	40
E	36 months	524	130	43	23
UNRATED		151	151	0	61
Total		1642	606	354	328

Unrated businesses are those that have not yet been inspected and therefore do not have a rating. New businesses are continually added to the programme throughout the year. 111 were added during 2016/17 with 33 of them receiving an inspection, taking approximately 16 days of EHO time. A total of 85 new businesses were inspected during the year.

### 3.1.3 Food Standards

The table below shows the number of premises that the Council has on its database and the number of interventions required during the year.

FSA Risk Category	Minimum intervention frequency	No. on database	Projected interventions due 2016/17	Bought forward from 2015/16	Time Required (Days)
A	12 months	21	7	12	19
B	24 months	699	139	465	245
C	5 years	782	265	32	40
UNRATED		143	143	0	58
Total		1645	554	509	362

### 3.1.4 Feed Safety

As part of our ongoing commitment to reducing burdens on business, we have agreed with Trading Standards to undertake feed safety interventions at the same time we undertake food

safety interventions. This should have limited impact on the work of the team, but will remove the need for a second officer to visit the premises to undertake a separate feed visit. The time for these has been factored in to food hygiene interventions.

## 3.2 Service Requests

### 3.2.1 Health and Safety

The Council investigates requests for service from a wide customer base about health and safety issues in the workplace. We endeavour to provide comprehensive information and advice on health and safety when requested.

We have an internal policy, based on HSE guidance to determine whether requests for service will / may / will not be responded to. Our target is to respond to 100% of those requests for service that meet our selection criteria within two working days.

In 2015/16 we received the following number of requests for service:

Complaint Type	Number of Requests	Time Allocated 2015/16 (days)
Health and Safety	57	15
Accidents (none RIDDOR)	1	1
Licensing	45	6
Public Health	26	11
Smoking	10	1
<b>Total</b>	<b>139</b>	<b>34</b>

### 3.2.2 Food Safety

The Food Service receives complaints about food and food businesses. These are investigated in accordance with the selection criteria. Numbers of complaints received in 2015/16 are shown in the table below:

Nature of request	Number of Requests	Time Allocated 2016/17 (days)
<b>Premises</b>	54	22
<b>Standards</b>	83	34
<b>Hygiene</b>	48	19
<b>Totals</b>	<b>185</b>	<b>75</b>

## 3.3 Home Authority Principle and Primary Authority Principle

Gateshead Council fully supports the Home Authority Principle and the Primary Authority Partnership Scheme.

The Food Service is Home Authority for a number of producers and as such provides advice and investigates incidents on behalf of other Local Authorities. The Service does not have any Primary Authority arrangements in place, but is currently looking to enter into a partnership agreement with a local business.

Gateshead must abide by the relevant principles and guidance when it deals with any business that has a Primary Authority agreement. The Better Regulation Delivery Office website is

regularly monitored to identify new primary authority partnerships and the premises database updated with relevant information.

### 3.4 Advice to business

The Food Service not only provides advice on compliance and business improvement during each visit, but also responds to requests for advice from local businesses and members of the public. The total numbers of requests received in 2015/16 is 104, due to the new charging regime we anticipate that this will only require a total of 14 days to provide the advice.

The advice provided varies from forwarding website links or information packs to visiting a business to provide detailed advice on compliance and controlling hazards.

### 3.5 Food sampling

Food sampling is carried out in accordance with our procedures. The food and businesses sampled are determined by our intervention and sampling programmes and additional information received such as allegations of food poisoning, complaints, newly identified businesses, processes or hazards.

Annual sampling programmes are developed following consultation with the North East Food Sampling Group, the Public Analysts and Public Health England. The programmes support national food surveys (identified by FSA and Local Government Regulation) as well as regional and local priorities.

The time required includes the time taken for resamples and investigations of failed samples.

<b>Samples taken</b>	<b>2014/2015</b>	<b>2015/16</b>	<b>Time Allocated 2016/17 (days)</b>
<b>Microbiological examination</b>	454	500	338
<b>Analysis (composition/labelling)</b>	203	219	148
<b>Total</b>	<b>657</b>	<b>762</b>	<b>515</b>

In 2016/17 we will contribute to the PHE Cross Regional Studies on unpasteurised fruit and vegetable smoothies, hygiene during the production and handling of Ice, re-usable bottles for antibacterial sprays/sanitiser and cooked crustaceans and other cooked shellfish.

The FSA studies have been agreed, following a change to the way that the sampling is funded there are significant consequences for the compositional sampling programme, with the number of samples allocated to Gateshead being vastly reduced.

### 3.6 Control and investigation of outbreaks and food related infectious disease

The Food Service aims to safeguard the public through surveillance and investigation of food and water related infectious disease. The Service works closely with Public Health England and follows agreed disease specific procedures and when relevant, Outbreak Control Plans.

Numbers of incidents notified to the Service in previous years are shown in the table below:

<b>Food related infectious disease</b>	<b>2014/15</b>	<b>2015/16</b>	<b>Time Allocated 2015/16 (days)</b>
<b>Investigated</b>	103	153	62
<b>Monitored</b>	203	242	16
<b>Outbreaks</b>	11	4	20
<b>Totals</b>	317	355	98

During the year there have been improvements in the use of DNA analysis of food poisoning organisms. This has meant it is easier to link food poisoning organisms between people and the food they have eaten. It may also mean that there may be more outbreaks identified, these may not necessarily be local links as results are entered on a national database and may show links across the country.

One of the outbreaks reported has resulted in a formal investigation taking place, hence the increase in time allocation from previous years.

### **3.7 Food safety incidents**

The Service regularly receives reports of food incidents from the FSA via e-mail and text. Action depends on the nature of the incident and will be dealt with in accordance with the FSA Code of Practice. The majority are for information only but Food Incident warnings and Food Alerts for Action may require immediate action to remove the food hazard from the food chain. These Alerts/Incidents can potentially have an impact on programmed interventions.

There are a large number of product recalls received during the year, which officers need to be aware of. During the year 6 alerts for action were received.

### **3.8 Statutory Notifications**

A significant part of the health and safety workload is taken up with accident investigation. Certain injuries, dangerous occurrences and occupational diseases are reportable by businesses to the enforcing authority using RIDDOR. Incidents are selected for investigation in accordance with HSE Guidance, local and national priorities.

In 2015/16 we received 179 accident notifications and we investigated 38 of these. This was an increase on the previous year. That took a total of 38 officer days to carry out and a further 2 days to administer all notifications.

We will respond to notifications of defective lifting equipment within two working days or more promptly where appropriate, to ensure the risk of injury is minimised or eliminated.

The Council must be notified by licensed asbestos contractors about any asbestos stripping operation taking place in Council enforced premises. We will respond to all notifications in an appropriate timescale and liaise with the contractor to ensure that all work takes place according to legislative guidelines to minimise risk.

### **3.9 Registrations**

Byelaws require the registration of people and premises carrying out acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.

The Council is required to maintain a register under the Local Government (Miscellaneous Provisions) Act 1982 and charges are made for registration of persons and premises used for each activity. In 2015/16 we processed 28 applications for skin piercing, taking a total of 28 officer days. The team have commenced 2 campaigns targeting tattooists, with the aim of reducing the number of illegal tattooists. Firstly the Tyne and Wear Region has implemented a Tattoo Hygiene Rating Scheme. The aim is to encourage customers who wish to get a tattoo, to only go to premises with a good rating. The second campaign is called Ink Smart and is aimed at encouraging members of the public to tell us about illegal tattooists.

We also maintain a public register of installations under the Notification of Cooling Towers and Evaporative Condensers Regulations 1992. This can be used as a source of information in the investigation of a suspected legionella outbreak or for planning initiatives to control Legionella.

### **3.10 Licensing Applications**

The service is a statutory consultee under the Licensing Act 2003 and the Gambling Act 2005. The number of applications received is given in the table showing the number of health and safety service requests received.

### **3.11 Business training and information**

We will raise awareness with relevant businesses of legislative changes as they occur.

We encourage training courses for both inspectors and for businesses (over and above the statutory minimum) including those approved by the Chartered Institute of Environmental Health, FSA and the HSE.

### **3.12 Liaison and Partnerships**

The health and safety service has close and regular contact with the HSE via the North East Occupational Health and Safety Group. This results in shared priorities, and action plans with delivery through partnership working across the region. The HSE LA Partnership Officer attends and provides access to specialist services and shared resources. The group exists to promote uniformity, consistency and a sharing of knowledge. It fully supports the development of the partnership between HSE and Local Authorities working together and represents the Tyne and Wear, Durham and Northumberland authorities. Opportunities for joint working on both a national and regional level are explored and developed. There is a sub group which looks at skin piercing activities and promotes consistency in enforcement across the region.

Wider liaison with other environmental health professionals is supported via links with the CIEH (initially through the North East Regional Management Board) and the Knowledge Hub website.

The Food Service works very closely with neighbouring councils through the North East Food Liaison Group. Representatives meet quarterly to promote uniformity and consistency on issues such as enforcement, competency and training. It provides a forum for the sharing of knowledge and experiences to improve good practice and consistency. There are 2 sub-groups, one for microbiological sampling and one for food standards. The microbiological group has been

chaired by the Services Team Leader for 3 years. An EHO from Gateshead represents the wider region on the National Food Standards Focus Group.

The Service has close links with the Public Health England (PHE), Food, Water and Environment (FWE) Laboratory, now based in York. The PHE laboratory provides expert advice on microbiological issues associated with food poisoning, sampling and complaint investigation. Meetings are held regularly between the north east local authorities and key laboratory personnel to discuss practices, training and current issues.

The Service has formally appointed Public Analysts and has established close working links associated with sampling, chemical analysis and labelling. The North East Food Sampling Groups meet quarterly to discuss compositional and microbiological issues, and to arrange coordinated regional sampling targeting wider and emerging food safety issues.

The Service works in partnership with the NE Health Protection Unit of PHE concerning notification of infectious diseases, reporting and investigation of food or water borne illness and infection control.

There is regular contact with the FSA and this includes reporting food safety and fraud issues for the national database to assist in investigations by other organisations and the annual Local Authority Enforcement Management Scheme (LAEMS) return of data. Over the coming months the new Food Crime Unit will also become an important point of contact and we will be sharing information and intelligence with it.

Wider liaison with other environmental health professionals is supported via links with the CIEH and the Knowledge Hub website. The service also works closely with other services and groups within the council.

During the year the service received 2 audits of its activities.

The first was an audit of enforcement of the legislation pertaining to sprouting seeds by the European Food and Veterinary Office. The audit was aimed at the UK as a whole so did not generate a report specific to Gateshead. It did however; highlight several areas of improvement, which have all been implemented.

The second audit was an inter authority audit of the implementation of the Food Hygiene Rating Scheme. The report highlighted several areas of improvement and a plan has been submitted to the audit team and approved.

## **4. Resources**

### **4.1 Finance**

#### **4.1.1 Expenditure**

An overall expenditure budget for 2016/17 has been set that covers:

- Salaries, national insurance and superannuation
- Vehicles
- Sampling
- Analytical fees
- Incineration and waste disposal
- Control of infectious diseases
- Consumable materials and technical equipment



A 'credit' system is operated by the FWE laboratory for microbiological samples taken for the protection of public health. Each Authority is allocated an annual number of credits to 'spend' on the various tests. There is no charge to the authorities for samples taken within the credit allocation.

The Service has and will continue to take advantage of free and highly subsidised training provided by the FSA and PHE.

#### 4.1.2 Income

Charges apply for the registration of skin piercing premises and practitioners. These are one-off charges that provide a small amount of income to the team.

A charging system will be introduced to allow for recouping the costs of none statutory functions. In 2015/16 the team provided 6 export certificates for a local business, under the new system this would have produced £450 income. Charges will be based on £75 per hour.

The cost of registration for skin piercing activities has also been increased to better reflect the costs to the service of undertaking the registration process.

#### 4.2 Resources

The following tables show how much time in days officers have allocated to the various parts of the service. These are projected figures based on the estimated times allocated during 2015/16 as shown in the previous tables. In calculating the resources required the management figures are excluded as they are not included in the time calculations shown above.

##### 4.2.1 Management

Officer	H & S	Smokefree	Food	ID
Environmental Health, Licensing and Enforcement Manager	22	4	44	7
Team Leader	56	9	127	9
Senior EHO	10	2	120	6

##### 4.2.2 Operational

Post	Officer	H & S	Smokefree	Food	ID
1	Team Leader	10	2	5	2
2	Senior EHO	12	9	56	5
3	EHO	22	0	176	22
4	EHO	22	0	176	22

5	EHO	22	0	176	22
7	Modern Apprentice	66	2	132	20
8	TO	0	0	198	22
9	Student EHO	44	2	154	20
	Total	198	15	1073	135

### 4.2.3 Competence

Each officer has a level of competence and specialism that directs what type of work they are able to undertake. The Senior EHO undertakes assessment of each officer on a regular basis. Regular A&D's identify any training issues and how best to provide the training. The team also undertakes a number of exercises to test competence and help improve knowledge and confidence. The team took part in the national consistency exercise run by the FSA earlier in the year.

### 4.2.4 Overall Resource Required

Activity	Visits / investigations	Total Time
Health and safety inspections	1	1
Health and safety face to face interventions	386	52
Health and safety none face to face interventions	937	63
Accident investigations	38	40
Health and safety service requests (Includes licensing Applications)	129	32
Skin piercing applications	20	20
Smokefree complaints	10	1
Food safety inspections	823	268
Food standards inspections	920	304
New Businesses	294	119
Food premises approvals	4	12
Food sampling interventions	657	486
Infectious disease investigations	317	80
Food service requests	185	75
Food Safety Notices	156	26
Food Advice	104	14
Meetings		79
Training		80
ICT Maintenance		20
Total	4981	1772

	H&S	Smokefree	Food	ID	Other	Total
Time Available	198	15	1073	135	0	1421
Time Required	209	1	1292	80	179	1761
Balance	-11	14	-219	55	-179	<b>-340</b>

### **4.3 Staff Training and Development**

Food training is provided free of charge by the FSA and is available both regionally and nationally. Officers are required to maintain 10 hours CPD in food related training in order to maintain their basic food competence. The FSA are consulting on a proposal to require all officers involved in food enforcement to maintain 20 hours CPD. The impact of this will be evaluated and comments made to the FSA.

Further training is provided through the North East Public Protection Partnership

Environmental Health Officers must maintain a minimum of 20 hours CPD to maintain competence and 30 hours if chartered Environmental Health Professionals. Environmental Health Officers are also career graded and must take on extra responsibility to progress within the career grade.

## **5. Quality Assessment**

The Team is fully committed to the principles of continuous improvement and will strive to maintain high standards of performance.

Officer workload, enforcement decisions and data recording will be monitored by the Senior EHO to ensure consistency and accuracy. Health and Safety enforcement decisions are confirmed by using the Enforcement Management Model.

Officers undertake joint visits to ensure consistency and share knowledge and best practice.

The Intervention Plan and Sampling Programme are monitored on a monthly basis and progress is reported to the Head of Service.

Business and consumer satisfaction is monitored through the use of postal surveys. The survey in 2015/16 showed that respondents strongly agreed that overall they were satisfied with the inspection service they received. Full results can be found in the Customer Satisfaction Survey End of year Report.

## **6. Review**

Below is a review of the work completed in 2015/16. Due to changes in working practices and coding of premises that occurred during the year it is not always possible to directly link the planned work with what has been carried out. Also many of the visits included visits to previously unrated premises. Many food premises now receive a joint intervention that includes both food and health and safety.

## 6.1 Health and Safety

Sector, premises type or specific cross sector activity	Planned activity or resource		Achieved	Comments
	Visits / contacts	Officer days		
Health and safety inspections	2	2	6	We do not have any A rated premises
Health and safety face to face interventions	251	102	45	Mainly included as joint food hygiene interventions and includes a number of take away premises
Health and safety none face to face interventions	386	52	202	
Accident investigations	132	43	38	
Health and safety service requests (Includes licensing Applications)	139	41	125	
Skin piercing applications	20	20	28	
Smokefree complaints	18	2	10	
<b>Total</b>	<b>1271</b>	<b>327</b>	<b>1009</b>	

## 6.2 Food Safety

Activity	Planned	Officer Days	Achieved	Comments
<b>Food Hygiene Interventions</b>				
A	2	4	5	A number of new high risk establishments have been identified during the year.
B	25	25	16	Those not inspected were due in March 2016.
C	271	146	70	Premises that are broadly compliant and low risk have not been visited in preference to higher risk establishments and taking enforcement actions where low compliance
D	454	123	203	
E	127	17	67	
UNRATED	95	39	46	
<b>Food Standards Interventions</b>				
A	19	24	8	Standards interventions are normally undertaken at the same time as hygiene interventions. However, where a sampling intervention is undertaken, the standards intervention is not carried out until the next inspection. The Food Information Regulations 2014 have had a large impact on the work of the team and has required an increase in the time spent with businesses.
B	568	318	86	
C	46	28	14	

In the following table, planned activity is taken from the activity reported in last years' service plan. The level of activity is dependent upon the number of reports and what formal action is taken throughout the year.

Activity	Projected	Officer Days	Achieved	Comments
<b>Sampling</b>				
Microbiology	454		500	The sampling officer has been on long term sick leave. This has led to fewer samples being taken.
Compositional	203		219	
<b>Infectious Disease</b>				
Investigated	103		153	
Monitored	203		242	
Outbreaks	11		4	A major outbreak is being formally investigated.
<b>Service Requests</b>				
	339		280	
<b>Enforcement</b>				
Written warnings	215		141	These figures reflect our commitment to improving conditions within the poorest performing premises.
Hygiene Improvement Notices	16		18	
Prosecutions	2		1	
Simple caution	0		1	
Voluntary surrender	6		13	
Condemnation	0		0	

## 7. Service Improvements

### 7.1 Health & Safety

We will continue to expand the number of joint visits that are carried out to reduce burdens on business and work in a more efficient way. This is particularly true in take away premises where an intervention can only be undertaken in the evening.

We will continue the use of mailshots to lower risk businesses and provide guidance combined with self-assessment questionnaires.

We will examine the use of alternative means of contacting businesses.

### 7.2 Food

We will become more risk based in our approach to inspections. Lower risk businesses will receive self-assessment questionnaires, whilst compliant businesses at last inspection will receive an alternative intervention.

The highest risk premises and poor performing businesses will still receive an inspection.

We will examine the use of alternative ways of working and where colleagues are visiting premises ask them to obtain some basic information to assist us.

We will target new businesses, in order to reduce the number of outstanding inspections..

We are updating our webpages to increase the information provided to businesses and the public. We will encourage more use of online applications and reporting of problems.

### 7.3 Service Priorities

In 2016/17 the Development & Public Protection Service Priorities we will contribute to will be:

- Improving Health and Wellbeing
  - Ensuring safe food.
  - Ensuring compositional standards are met and that labels are accurate, including nutrition information and claims.
  - Prevent food fraud.
  - Ensuring workplaces are safe.
  - Investigating workplace accidents to prevent them recurring.
  - Work with the Adult Safeguarding Team to ensure the safety of elderly residents in care homes.
- Improving Customer Service
  - Expanding our customer satisfaction surveys to other areas of the service.
  - Review standard letters and notices to ensure they are written in plain English and can be produced quickly and efficiently.
  - Ongoing review of the procedures manual.
- Supporting Businesses
  - Providing advice to businesses.
  - Participation in the national FHRS scheme to promote business improvement.
  - Continuing to support the Metrocentre, through our joint aim of having all food businesses rated as 4 or 5.
  - Supporting the Rural Economic Strategy.
- Creating a High Quality and Sustainable Environment
  - Supporting businesses to improve their environment and going green.
- Maximising Efficiency and Value for Money
  - Examining alternative ways of working.
  - Carrying out more combined food and health and safety visits.
  - Being the eyes and ears for other teams during our visits and checking compliance with indicator items.
  - Ensuring our officers maintain and increase competence.
- A highly respected service which meets all service user needs ensuring they are well informed
  - Expand our use of customer satisfaction surveys.
  - Examine suggestions and respond to poor performance.
  - Ensure that all compliments and complaints are entered onto the corporate system.



**COUNCIL MEETING**

**21 April 2016**

## **CORPORATE HEALTH AND SAFETY POLICY**

---

**Jane Robinson, Chief Executive**

**Mike Barker, Strategic Director, Corporate Services and Governance**

---

### **EXECUTIVE SUMMARY**

1. The purpose of this report seek approval of a revised Corporate Health and Safety Policy covering all Council employees and others affected by the Council's work activities.
2. It is a legal requirement to have a health and safety policy and it is recognised as good practice to review and revise the policy to keep it up to date with the Council's overall aims and objectives and to ensure it follows the principles of current good practice.
3. The proposed policy, detailed at Appendix 2 of the attached report has been updated in content to cover health and safety legislation in a precise format.
4. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATION**

5. It is recommended that Council approves the Corporate Health and Safety Policy

This page is intentionally left blank



**TITLE OF REPORT:** Corporate Health and Safety Policy

**REPORT OF:** Mike Barker, Strategic Director, Corporate Services & Governance

---

### **Purpose of the Report**

1. To request that Cabinet recommends to Council approval of the revised Corporate Health and Safety Policy covering all Council employees and others affected by the Council's work activities.

### **Background**

2. It is a legal requirement to have a health and safety policy and it is recognised as good practice to review and revise the policy from time to time to keep it up to date with the Council's overall aims and objectives and to ensure it follows the principles of current and good practice.
3. The delivery of public services will always involve a degree of potential risk. It is important, however, that the Council, wherever possible, eliminates such risks, or minimises them by being proactive in the management of risk. An effective health and safety management system is a method by which issues can be placed in an agreed framework to identify, analyse, control and monitor risks.
4. Having a policy that sets a clear direction for the organisation to follow is one of the key elements of health and safety management.
5. An effective health and safety management system will contribute towards:
  - Providing a high quality service
  - Achievement of the Council's strategic and operational objectives
  - Providing a safe and healthy working environment
  - Protection of the Council's assets
  - Ensuring compliance with statutory requirements
  - Minimising financial losses which arise from unplanned events
  - Ensuring a systematic approach to the identification of risks and the allocation of resources to control them
  - Supporting quality initiatives aimed at continuous improvement.
6. The Cabinet must ensure that the Chief Executive has in place an effective health and safety management system and that decision making systems allow for health and safety implications to be given appropriate and proper consideration.
7. The Chief Executive has overall responsibility for health and safety and must have an effective management structure and arrangements in place to deliver the policy.

8. Strategic and Service Directors will be responsible for providing leadership and implementing the policy within their portfolio responsibilities.
9. Once the policy has been implemented, it will be important to measure, audit and review performance.

### **Proposal**

10. The Corporate Health and Safety Policy as proposed in Appendix 2 has been updated in content to cover health and safety legislation in a precise format. It is proposed that the Council adopts the revised policy.

### **Recommendation**

11. It is recommended that the attached draft policy is agreed by Cabinet and referred to Council for approval at its meeting on 21 April 2016.

For the following reason:

To comply with the legal requirement to have and keep updated a health and safety policy.

---

**CONTACT:** Mike Barker ext: 2100

### Policy Context

1. The adoption of the policy will directly contribute to the Corporate Risk Management Strategy and the Occupational Health and Safety Strategy. It will also allow the Council to support objectives within Vision 2030 and the Council Plan.

### Background

2. The Council recognises that good health and safety management supports the delivery of our services for the people of Gateshead. As part of the overall risk management process and culture, good health and safety management will help reduce injury and loss, help promote a healthy workplace and help protect all who are affected by the Council's activities.
3. By having an up to date effective health and safety policy it sets a clear direction for the Council to follow and will contribute to all aspects of business performance as part of a demonstrable commitment to continuous improvement.
4. Gateshead Council is an Enforcing Authority under health & safety law and has statutory responsibilities to enforce the relevant legislation. As a result of this the Council should be seen as an 'exemplar' and ensure the Health and Safety Policy is reviewed annually and revised whenever necessary. This will also ensure that the Council meets at least the same standards expected of others and preferably has a higher standard. In revising the Corporate Health and Safety Policy the Council can be assured of taking every step possible to ensure the standards relating to health and safety remain high.

### Consultation

5. The Leader, recognised non-teaching trade unions and members of the Corporate Health and Safety Committee have been consulted regarding the revision of the policy.

### Alternative Options

6. There is a legal requirement under the Health and Safety at Work etc. Act to prepare a health and safety policy and draw any revision of it to the attention of employees. Therefore, no alternative options have been considered.

### Implications of Recommended Option

7. **Resources:**
  - a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that implementing the revised Health and Safety Policy will be accommodated from within existing resources. Improvements in health and safety performance will reduce the number of successful claims for compensation for injury/ ill health, contribute to a reduction in sickness absence, and reduce the risk of fines resulting from prosecution.

- b) **Human Resources Implications** – The policy will help to ensure that the Council is a safe and healthy place to work.
  - c) **Property Implications** – There are no property implications arising from the recommendations within this report.
7. **Risk Management Implications** - The changes in the Council’s Corporate Health and Safety Policy statement as recommended in the report are relatively minor and are not considered to introduce any new risk.
  8. **Equality and Diversity Implications** – There are no equality and diversity implications.
  9. **Crime and Disorder Implications** – There are no crime and disorder implications.
  10. **Health Implications** - The policy will help to minimise or address work related health issues.
  11. **Sustainability Implications** - There are no sustainability implications.
  12. **Human Rights Implications** – There are no direct implications, although the proposal will support employees’ existing rights to a safe and healthy working environment.
  13. **Area and Ward Implications** - There are no area or ward implications.
  14. **Background Information**  
‘HS (G) 65 Managing for Health and Safety’ and ‘Helping Great Britain Work Well – a New Health and Safety System Strategy’ published by the Health and Safety Executive.  
‘Leading Health and Safety at Work’ published by the Institute of Directors and the Health and Safety Commission.  
‘Think about Health and Safety – What Elected Members Need to Know’ published by the Institute of Occupational Safety and Health.

## Corporate Health and Safety Policy (LCS-HS-04)

This health and safety policy statement is the principal document for health and safety in Gateshead Council.  
 All other health and safety documents at a corporate or service group level will meet or exceed the principles set out here.  
 Everyone who works for the Council is encouraged to read this policy and consider how they can contribute to achieving its aims.

### General statement of health and safety policy

<p>Gateshead Council recognises that good health and safety management supports the delivery of quality services to the people of Gateshead.</p> <p>The Council is committed to providing and maintaining a healthy and safe working environment for all its employees and will ensure that their work does not adversely affect the health and safety of other people, such as service users, visitors and contractors.</p> <p>In order to achieve this aim the Council has the following key objectives:</p>	<ul style="list-style-type: none"> <li>as a minimum, to comply with requirements of relevant legislation;</li> <li>to identify hazards, assess risks and manage those risks;</li> <li>to ensure that employees (and others, as appropriate) are adequately informed of the identified risks and, where appropriate, receive information, instruction, training and supervision;</li> <li>to assess all occupational health risks and take action to prevent, reduce or control them to an acceptable level and conduct health surveillance when required;</li> <li>to provide adequate financial resources to ensure that proper provision can be made for health and safety;</li> </ul>	<ul style="list-style-type: none"> <li>to consult with employees' representatives on health and safety matters;</li> <li>to provide and maintain safe and healthy premises, and work equipment;</li> <li>to ensure that employees are competent to do their tasks, providing training where necessary;</li> <li>to ensure that contractors are competent to manage the health and safety aspects of their work;</li> <li>to maintain appropriate health and safety management systems and arrangements; and</li> <li>to monitor and review the effectiveness of the safety management systems and arrangements then where appropriate, implement improvements.</li> </ul>
	Councillor Mick Henry Leader of the Council	Jane Robinson Chief Executive

### Organisation and responsibilities

<p><b>Councillors</b> have overall responsibility for considering proposed changes to the Council's health and safety policy, within which Cabinet, individual committees and their officers will operate.</p> <p><b>The Chief Executive</b> has responsibility for ensuring that the Council's health and safety policy is implemented effectively by strategic directors.</p> <p><b>Strategy Group shall:</b></p> <ul style="list-style-type: none"> <li>provide strategic direction by endorsing and enabling implementation of corporate health and safety strategies;</li> <li>ensure that robust health and safety management systems, arrangements and organisations exist in each group; and</li> <li>support the Chief Executive in meeting her safety responsibilities for the Council as a whole.</li> </ul> <p><b>Strategic Directors together with their Group Management Teams</b> are responsible for establishing their own arrangements for:</p> <ul style="list-style-type: none"> <li>producing a health and safety policy for their group that supports the corporate health and safety objectives, bringing this to the attention of employees and revising as necessary to ensure that it remains valid;</li> <li>identifying the hazards and relevant legislation applying to their activities and assessing the associated risks;</li> <li>planning and implementing arrangements to eliminate or control significant risks and to comply with the relevant legislation;</li> <li>monitoring the above arrangements to ensure that they are working effectively;</li> <li>ensuring their managers are competent in health and safety management techniques;</li> <li>ensuring that staff are involved and consulted on relevant health and safety matters in good time and ensure that their views are considered;</li> <li>obtaining assistance from the Health and Safety Team where necessary;</li> <li>ensuring adequate resources are provided for health and safety;</li> <li>undertaking workplace 'tours' to ensure health and safety risks are identified;</li> </ul>	<ul style="list-style-type: none"> <li>reviewing the health and safety performance of their group annually and providing a summary of that review to be included in the annual health and safety report;</li> <li>reporting to the Chief Executive any situation where the standards set out in the Council's general statement of health and safety policy cannot be implemented.</li> </ul> <p><b>Service Directors, head teachers, managers and supervisors</b> will have specific responsibilities which will be set out in their group / school health and safety policy, and are required to:</p> <ul style="list-style-type: none"> <li>comply with the requirements of their group / school health and safety documentation;</li> <li>ensure all work related hazards are identified and suitable and sufficient risk assessments are undertaken and recorded;</li> <li>develop local procedures and safe working practices in line with corporate and service specific documentation and risk assessments;</li> <li>ensure that they and their staff have adequate levels of competency to complete their work tasks safely;</li> <li>ensure that health and safety systems are maintained;</li> <li>report and investigate incidents as required; and</li> <li>develop and implement an effective health and safety management action plan, monitored and revised on a regular basis.</li> </ul> <p><b>All employees</b> (and volunteers) are responsible for:</p> <ul style="list-style-type: none"> <li>taking reasonable care of their own health and safety and that of others affected by their acts or omissions;</li> <li>co-operating with the management of their service / school so far as is necessary to enable the risks to be controlled and achieve compliance with relevant legislation;</li> <li>using all work equipment and substances in accordance with the instruction and training received;</li> <li>not intentionally misusing anything provided in the interests of health, safety and welfare; and</li> </ul>	<ul style="list-style-type: none"> <li>reporting to their supervisor or manager any health and safety problem which they cannot deal with themselves or any shortcoming they consider to be in the health, safety and welfare arrangements.</li> </ul> <p><b>Health and Safety Team</b>    In order to assist the Council, the health and safety advisers will provide competent advice and make recommendations to Strategy Group on the development of the health and safety strategy, policies, procedures and implementation plans. They will also:</p> <ul style="list-style-type: none"> <li>provide competent advice and support to managers on health and safety matters;</li> <li>keep up to date on developments in health and safety legislation and practice;</li> <li>monitor on behalf of the Council the implementation of health and safety policies and procedures;</li> <li>stop any unsafe activity;</li> <li>provide health and safety training and instruction;</li> <li>receive accident and incident reports, investigate as appropriate, compile and analyse accident and incident data; and</li> <li>liaise with recognised trade unions and their appointed workplace representatives on issues relating to the health and safety of their members.</li> </ul> <p><b>Employee consultation</b>    Employees or their representatives will be consulted on the arrangements to control significant risks and to comply with the relevant legislation. This will be done informally by managers and supervisors in the workplace and formally through the Council's joint consultative arrangements, where health and safety will be a standing item on agendas or where appropriate, through health and safety committees or forums.</p> <p><b>Monitoring and review of the Council's health and safety performance</b>    An annual report will be presented to the Corporate Resources Overview and Scrutiny Committee. This will summarise the results of the monitoring activities carried out across the Council, review the injuries/incidents reported and recommend any actions for improving performance.</p> <p>This policy has immediate effect and replaces previous versions. The policy will be reviewed annually and amended as necessary.</p>
--	---	--

Approved on behalf of the Council by the xxx on xx xx2016

This page is intentionally left blank



**COUNCIL MEETING**

**21 April 2016**

## **COUNCILLOR ENGAGEMENT AND DEVELOPMENT FRAMEWORK**

---

**Jane Robinson, Chief Executive**

**Mike Barker, Strategic Director, Corporate Services and Governance**

---

### **EXECUTIVE SUMMARY**

1. The purpose of this report is to seek approval of the new Councillor Engagement and Development Framework.
2. The Framework has been developed as a result of a review of existing procedures, processes and protocols that have been produced over a number of years, particularly relating to consultation, engagement, training and development.
3. Where required, protocols have been updated and new ones produced.
4. The Framework is intended to be used by councillors and officers as a guidance and reference document to ensure effective engagement, and an understanding of arrangements, roles and responsibilities.
5. The Cabinet has considered the facts and issues arising from the report including alternative options and took all relevant advice before formulating their recommendation.

### **RECOMMENDATION**

6. It is recommended that Council:
  - (i) approve the Councillor Engagement and Development Framework as outlined; and
  - (ii) agree to add the Protocol on Councillors' Attendance to the 'Associated Protocols' within the Code of Conduct for Members.

This page is intentionally left blank



**TITLE OF REPORT:** Councillor Engagement and Development Framework

**REPORT OF:** Mike Barker, Strategic Director, Corporate Services and Governance

---

### **Purpose of the Report**

1. To ask Cabinet to recommend the Council to agree the recently finalised Councillor Engagement and Development Framework.

### **Background**

2. The Council has, over recent years, developed a number of procedures, processes and protocols, which, taken together, are intended to guide councillors on how they undertake their duties, in particular relating to consultation, engagement, training and development.
3. A review has taken place that looked at existing arrangements and protocols in place relating to these areas. As a result of the review, an overarching Councillor Engagement and Development Framework has been produced. Where appropriate, new protocols and procedures have been developed in line with current practice.
4. A copy of the Framework is attached at Appendix 2 and contains the following sections:
  - A foreword by the Leader of the Council;
  - How the Council works;
  - The Council's Officer structure;
  - Communication and Consultation;
  - Councillor Development;
  - Feedback, concerns and compliments;
  - ICT Provision.
5. At the end of each section, there is a 'Related Information' heading which lists documents for further reference. This list will contain hyperlinks to each document, once the Framework is published.
6. The Framework, and the amended protocols, procedures and documents have been considered by the Councillor Support and Development Group and Audit and Standards Committee, who agreed with all of the proposals.

## Recommendation

7. It is recommended that Cabinet:
- agree the Framework and recommend it to Council for approval; and
  - recommend that Council agree that the Protocol on Councillors' Attendance is added to the 'Associated Protocols' within the Code of Conduct for Members.

For the following reason:

To ensure councillors and officers are able to engage effectively, and have a good understanding of arrangements, roles and responsibilities.

---

**CONTACT: Martin Harrison** extension: 2101

### **Policy Context**

1. The Council has, over the years, developed a number of procedures, processes and protocols which, taken together, are intended to help guide councillors on how they undertake their duties, and in particular relating to consultation, engagement, training and development.

### **Background**

2. A review was instigated by the Chief Executive, following consultation with the Leader of the Council, to look at existing arrangements and protocols in place relating to consultation and engagement with councillors.
3. Where required, protocols and processes have been updated, and new documents produced where appropriate.
4. Some key areas that have been addressed are:

#### How the Council Works

This section includes a reference to the Protocol on Advisory Groups that has been updated to refer to the current Advisory Group structure. This protocol is attached at Appendix 3.

#### Communicating and Consulting with Councillors

The two existing protocols relating to this have been merged into one new protocol that outlines the timescales officers are expected to follow when responding to enquiries made by councillors. It also outlines when councillors should be consulted about issues affecting their wards. This is attached at Appendix 4.

#### Councillor/Officer Relations

This protocol has been substantially reviewed and updated. It stresses mutual respect between councillors and officers, and gives clarity on what each can expect from the other. The revised protocol is attached at Appendix 5.

#### Councillor Development

A new protocol on Councillors' Learning and Development has been drawn up that includes what is expected in terms of attendance at meetings, training sessions and completion of Personal Development Plans. This is attached at Appendix 6.

All training and development is important, but some areas are considered essential so councillors are asked to undertake to attend courses on:

- Ethics, probity and the Code of Conduct;
- Training relating to committee membership;
- Equalities; and
- Child Protection.

#### Councillor Attendance

A new protocol has been produced specifically dealing with councillor attendance at meetings. In view of the crucial importance of this area, it is considered appropriate that the Council is asked to add this protocol to the 'Associated

Protocols' in the Code of Conduct for Members, so that a failure to comply with the protocol could be seen as a breach of the Code. The protocol is attached at Appendix 7.

### Outside Bodies

Most councillors are appointed to serve on outside bodies. To aid councillors' understanding of their roles and assist them to carry out their roles effectively, a role descriptor has been prepared, together with a protocol setting out general guidance and potential pitfalls. These are attached at Appendix 8.

5. Following completion of the review, a Councillor Engagement and Development Framework has been produced that encompasses all of the information relating to this area.
6. The Framework is intended to be used by councillors and officers as guidance and reference to ensure effective engagement, understanding of arrangements, roles and responsibilities, within a context of reduced resources.

### **Consultation**

7. The Councillor Support and Development Group, Audit and Standards Committee and the Leader of the Council have been consulted throughout the process.

### **Alternative Options**

8. There are no alternative options.

### **Implications of Recommended Option**

#### **9. Resources:**

- a) **Financial Implications** – there are no financial implications arising from the recommended option.
  - b) **Human Resources Implications** – there are no human resources implications arising from the recommended option.
  - c) **Property Implications** - there are no property implications arising from the recommended option.
10. **Risk Management Implication** - there is no risk management implications from the recommended option,
  11. **Equality and Diversity Implications** - there are no equality and diversity implications arising from the recommended option.
  12. **Crime and Disorder Implications** – there are no crime and disorder implications arising from the recommended option.
  13. **Health Implications** –there are no health implications arising from the recommended option.

14. **Sustainability Implications** - there are no sustainability implications arising from the recommended option.
15. **Human Rights Implications** - there are no human rights implications arising from the recommended option.
16. **Area and Ward Implications** - there are no area and ward implications arising from the recommended option.

#### **Background Information**

17. Reports presented to:
  - Councillor Support and Development Group on 11 March 2015;
  - Councillor Support and Development Group on 9 September 2015;
  - Audit and Standards Committee on 7 March 2016.



# Councillor Engagement and Development Framework

April 2016

IN UNITY, PROGRESS



# Councillor Engagement and Development Framework

## Foreword by the Leader of the Council

In Gateshead, we believe continuous councillor development is essential to ensure that councillors update their knowledge and learn new skills and behaviours to guide decision making.

To support that ambition, this framework has been developed, which is the culmination of a recent review and refresh of all aspects of engagement with councillors, and their development and support.

The framework brings together, in a clear and accessible format, all the existing protocols, which have been revised and refreshed where necessary, and establishes new ones where appropriate. Also within the framework will be the advice and guidance provided to officers on how to engage, consult and brief councillors.

Each section contains advice, guidance and protocols on the relevant aspects, in order to assist you and officers to provide the best support.

I hope you find this guide useful and use it to fully support your role as a Gateshead councillor.



**Councillor Mick Henry**  
**Leader of Gateshead Council**

---

## Contents

1. How the Council Works
2. The Council's Officer Structure
3. Communication and Consultation
4. Councillor Development
5. Feedback, concerns and compliments
6. ICT Provision

## How the Council Works

In May 2002, the Council adopted a new constitution prepared under the Local Government Act 2000. The constitution is based on the following allocation of responsibilities:

- the full Council sets the budget and policies for Council services
- the Leader and Cabinet take responsibility for ensuring that these policies are delivered and for developing proposals for changes to policy or new policies
- overview and scrutiny committees (OSCs) review decisions, scrutinise performance and ensure that all agencies work together to improve the quality of life for Gateshead residents
- two advisory groups that report directly to Cabinet

The constitution requires that all decisions are made openly and transparently, after proper consultation and with regard for the principles of human rights and equal opportunities. The Council's decision-making system is designed to:

- support councillors in representing their local communities
- help councillors to identify their priorities more clearly
- provide a sound basis for tackling cross-cutting issues
- provide a focus for community leadership and partnerships with other organisations

### The Council

The full Council, consisting of all 66 elected members, meets every six weeks plus an annual meeting and a budget meeting. Its role is to:

- agree the policy framework, strategies and plans
- agree the budget
- decide the political management framework
- appoint the Leader

The Council also receives reports from Cabinet members and from Overview and Scrutiny committees. Councillors can put forward notices of motion, which initiate debates on topics of major significance to the Borough. Councillors may also question the Leader and Cabinet members, and present petitions on behalf of local residents. Members of the public can also ask questions or present petitions, provided they give notice.

The six-weekly Council meeting is above all the 'public face' of decision making – the forum at which all members gather to determine, in the public spotlight, the most significant policy issues facing the Borough. To bring the Council closer to the people, some Council meetings have been held outside the Civic Centre.

### The Cabinet

The Cabinet consists of ten members headed by the Leader of the Council, who appoints the nine other members, one of whom is appointed Deputy Leader. The Cabinet provides political leadership and direction across the whole range of Council services and considers all policy issues.

While the Cabinet acts collectively, individual Cabinet members have their own portfolio allocated to them by the Leader. Cabinet members work in teams, with one lead member supported by one or two others, depending on the size of the portfolio. The Cabinet collectively



makes decisions on most Council services within the budget and policy framework set by the full Council. It meets fortnightly and its meetings, like those of other Council bodies, are held in public – except where personal or confidential information is to be discussed.

### **Decision Making Committees**

By law, decisions about planning applications, licences and similar matters may not be taken by the Cabinet. The Council has therefore set up separate committees, consisting of non-Cabinet members, to take these decisions. The main committees are:

- **Accounts** - which approves the annual statement of accounts and statement on internal control
- **Appeals** - which hears appeals on a range of service issues such as exclusion from the housing register
- **Audit and Standards** - this Committee meets, reviews, monitors and approves the Council's arrangements for audit, both internal and external, risk management and the overall control environment. It is also responsible for promoting and monitoring high standards of conduct and assists all councillors to observe the code of conduct.
- **Health and Wellbeing Board** - this Board, which comprises of councillors and representatives of partner health organisations, leads on the production of the Joint Strategic Needs Assessment and a Joint Health and Wellbeing Strategy, both of which aim to advance the health and wellbeing of residents in Gateshead.
- **Licensing** - which deals with liquor licensing and public entertainment
- **Planning and Development** - which deals with planning applications
- **Personnel Appeals** - which hears appeals from employees on matters relating to their employment
- **Regulatory** - which grants various types of licence (e.g. for hackney carriages)
- **Rights of Way** - which makes decisions on bridleways and footpaths.

### **Overview and Scrutiny Committees**

The Council has four overview and scrutiny committees (OSCs), again consisting wholly of non-Cabinet members. Between them, the OSCs cover all the Council's services, but each OSC focuses on a specific aspect of the Council's priorities. The OSCs are:

- **Care, Health and Wellbeing** - which reviews social services (except those for children and young people) and health services
- **Communities and Place** - which examines economic development; lifelong learning; culture (including leisure); housing; physical development and regeneration; transport planning and public transport; and local environment, including climate change. There is also a Community Safety sub-committee, which looks specifically at issues relating to community safety.
- **Corporate Resources** - which focuses on the management of resources, including value for money and procurement; supporting democracy and involving local people; equalities and diversity.
- **Families** - which focuses on all services provided to children and young people, particularly education and social services. There is a Corporate Parenting sub-committee, which specifically looks specifically at the Council's role in this area.

OSCs hold decision-makers (the Cabinet and officers) to account, but also work with other parts of the Council in contributing to the development of policy. An important part of their role is to

question other agencies, public and private, whose actions affect the lives of Gateshead people, for example National Health Service Trusts.

Functions of OSCs include:

- Reviewing Council policies and making recommendations to the Cabinet and/or Council
- Considering reports on performance
- Examining decisions and, if appropriate, asking for decisions to be reconsidered before they are implemented.

### **Advisory Groups**

Advisory Groups report directly to and advise the Cabinet. They cover all the portfolio areas and match the scope of the OSCs. There are two principal advisory groups, namely Corporate Resources and Policy. The Corporate Resources Advisory Group is chaired by the Leader of the Council and the Policy Advisory Group by a councillor nominated by the Leader of the Council, from the Policy Advisory Group pool of Chairs. All councillors can self-nominate to the pool, prior to the start of the municipal year, with the Leader appointing Chairs when required.

All councillors are invited to meetings of both of these Advisory Groups

### **Related information:**

- *Constitution*
- *Councillors' Guide to Council Meetings*
- *Protocol on Advisory Groups*

## The Council's Officer Structure

The Council employs approximately 5,000 people to provide essential services to a population of around 200,505.

The officer structure is led by the **Chief Executive**, who is responsible for:

- Working closely with the Leader of the Council, providing advice and guidance on the forward planning of objectives and the delivery of services, and in doing so, securing a corporate approach to the affairs of the authority.
- Acting as the Council's Head of Paid Service; reporting to Council on the manner in which the discharge of the Council's function is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees;
- Providing strategic advice and arrange other advice to the Council, Cabinet and all other council bodies;
- The strategic management of the local authority, providing advice and support to elected members; and
- Developing and maintaining key relationships with strategic partners and other agencies and bodies.

The Chief Executive leads the strategic management team (known as Strategy Group), which delivers the Council's services through the Groups outlined below.

- *The Office of the Chief Executive*
- *Care, Wellbeing and Learning*
- *Communities and Environment*
- *Corporate Resources*
- *Corporate Services and Governance*

In the absence of the Chief Executive (e.g. annual leave or otherwise uncontactable), the most appropriate Strategic Director, or in their absence a Service Director to deal with the issue, should be contacted to provide advice and support.

More detailed information can be obtained from the Guide to Gateshead Council.

## Communication and Consultation

Councillors have an important role to play in their wards, taking up issues on behalf of their constituents and acting as a link between them and the Council. Councillors are entitled to expect that officers will support them in this role, and that their enquiries will be responded to in a timely manner. The protocol on Communicating and Consulting with Councillors sets out how these expectations will be realised in practice.

Councillors and officers are public servants and are indispensable to one another. Their responsibilities however are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers work under a contract of employment and are responsible to the Council. Their job is to give advice to councillors and to the Council, and to carry out the Council's work as ultimately directed by the Council's Head of Paid Service.

The relationship between councillors and officers is an essential ingredient that contributes to the successful working of the Council. The relationship within this Council is characterised by mutual respect, honesty and trust. Councillors and officers must feel free to speak to one another openly and honestly.

The Protocol on Officer/Councillor Relations provides detailed guidance to all parties and is dependent on mutual respect. In addition, a training course has been developed for officers, which looks at how officers should engage with councillors, including writing and presenting reports at committee meetings.

There are many opportunities for councillors to obtain and discuss information about issues from officers, including reports, briefings and seminars. In addition, some Services offer specific opportunities for councillors to find out about issues affecting their wards, for example the weekly road works schedule.

Councillors must also be mindful of the Code of Conduct, which is applicable to all councillors. The code is based on a model adopted by all seven North East authorities. In general, the code covers behaviour such as councillors not abusing their position or not misusing their authority's resources. In addition, there are rules on registration and disclosure of interests. Councillors are bound by the Code when they are conducting council business or representing the Council.

Two provisions of the Code apply regardless of whether councillors are conducting council business or not. Firstly, a councillor must not act in a manner that could be regarded as bringing the Council or their office into disrepute. Secondly, councillors should not use their office improperly to secure for themselves, or any other person, an advantage or disadvantage.

In particular, the Code of Conduct requires councillors:

- to promote equality by not discriminating unlawfully against any person;
- to treat others with respect;
- not to compromise the impartiality of those who work for the Council;
- not to prevent anyone getting information they are entitled to or disclose confidential information without consent;

- not to misuse the Council's resources; and
- to report a breach of the Code to the Monitoring Officer if they reasonably believe that another councillor has broken the Code.

**Related information:**

- *Protocol for Communicating and Consulting with Councillors*
- *Protocol on Officer/Councillor Relations including the following protocols:*
  - *Officer Attendance at Political Group Meetings and Other Political Meetings*
  - *Public Meetings*
  - *Candidates at Elections*
  - *Parliamentary Candidates*
- *Code of Conduct for Councillors*
- *Protocol on Report Formats and Preparing reports*
- *Protocol on seminars and briefings*
- *Protocol for Handing the Media*

## Councillor Development

The Council is recognised as a 'politically mature' Council with a high degree of trust and mutual respect between members of different political parties. This positive relationship has enabled the Council to move forward, in terms of how it supports and develops its elected members.

More than ever, Councillors have an increasingly important role to play as community leaders, identifying and taking up issues on behalf of constituents, and acting as a link between their constituents and the Council. At Gateshead, we believe councillors are entitled to expect officers from all our services to support them in this role.

Support, training and development is driven by councillors for councillors, via a cross-party Councillor Support and Development Group, which is chaired by the Leader of the Council. All of this training and development aims to support frontline councillors as the lynch pin and recognises that the community champion role is a demanding one.

The Council was awarded the North East Charter for Elected Member Development in 2008 in recognition of its work in this area.

All councillors are encouraged to take the opportunity to draw up a Personal Development Plan (PDP), which is monitored on an annual basis. The PDP helps to identify areas where individuals would like extra training or development.

### Personal Development Interviews

These interviews are confidential and the length will vary dependent upon the level of discussion. They provide an opportunity for you to reflect on your development needs in your current role and as a result, a personal development plan will be prepared tailored to your needs for the coming year. Role descriptors and the associated skills required are available to assist with this process. These interviews are optional but we would encourage you to take up this opportunity.

Your PDP will be updated at least annually and should be a "living document" that is refreshed to take into account your growing experience and changing needs.

### Role Descriptors

Role descriptors have been developed for the following:

- Councillor
- Cabinet Member
- Chair or Vice Chair of a Decision Making Committee or Overview and Scrutiny Committee
- Chair or Vice Chair of the Health and Wellbeing Board
- Councillor Member of the Health and Wellbeing Board
- Planning and Development Committee Member
- Overview and Scrutiny Committee Member
- Regulatory Committee and Licensing Committee Member
- Audit and Standards Committee Member

- Appointment to Outside Bodies
- Partnership Members
- School Governor

### **Induction Programme for new Councillors**

All newly elected councillors are encouraged to undertake the Council's induction programme. The programme has been designed over a number of years to assist new councillors in their new role with the Council. The programme offers an introduction to the Council, meetings with the Leader and Chief Executive, and meetings with the strategic management team in order to find out more about the services the Council provides to the residents of Gateshead.

New councillors are also allocated a 'buddy' – a more experienced councillor who can offer advice and support on any issue during the first few weeks and months.

In the months following the election, sessions are offered on a range of issues including Equality and Diversity, Local Government Finance, Code of Conduct for Councillors, Partnerships, Scrutiny, Risk Management and Health and Safety.

### **Training for new Mayors**

Members who are elected to the office of Mayor will attend a specialised training session aimed at incoming Civic Heads and their teams, including Deputy Mayors. Apart from the planned content, the seminar provides an opportunity to meet and network with people in similar roles. The seminar focuses on the role of the Civic Head and there is also a session on chairing Council meetings, which includes reference to the challenges of multi-party participation. There will be an opportunity to discuss any concerns you may have and arrange further support. Further one-to-one and group sessions can be arranged on areas such as public speaking if so required.

### **Appointments to Outside Bodies**

Most councillors are appointed to serve on outside bodies. To aid councillors' understanding of their roles and assist them to carry out their duties effectively, a role descriptor has been prepared, together with a protocol setting out general guidance and potential pitfalls.

### **Related information**

- *Protocol for Councillor Development*
- *Personal Development Plan Template*
- *Role Descriptors*
- *Protocol on Councillors Attendance at Conferences and Training Events*
- *Protocol on Appointments to Outside Bodies: The Councillors' Roles – General Guidance and Potential Pitfalls.*

## Feedback, concerns and compliments

### Complaints and compliments

The Council aims to deliver the best possible services and needs to know if it is getting it right. The Council's aim is to provide the best possible services to Gateshead residents. We appreciate all our customers' comments, good or bad. An annual report is produced and available to all elected members.

### Complaints

We believe that every customer has a right to complain. When residents give their views to the Council, they help us to:

- Put things right if we have made mistakes
- Continually improve our services and make sure we do not repeat mistakes.

### A customer may complain because:

- We failed to provide them with a service
- We provided them with a poor standard of service
- We provided the service in an unfair or discriminatory manner.

### How does the process work?

All complaints will be treated confidentially. Any information given is covered by the Data Protection Act. This means that we:

- Will keep personal data safe and secure
- Will not share it with other organisations without permission unless the law says we must and
- May use it to prevent and detect fraud.

### Compliments

The Council also appreciates any comments about the services it provides. Views can be given by email, by phone, in writing or in person. This is helpful as it identifies where the Council is performing well and helps to spread good working practices.

### Concerns or compliments from councillors

In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Strategic Director. Where the employee is the Chief Executive, the matter should be raised with the Monitoring Officer. Attempts will be made to resolve the matter informally but, if this is ineffective, it may be necessary to invoke the Council's disciplinary procedures.

Any positive feedback or compliments on the performance of an officer should be brought to the attention of the relevant Strategic or Service Director. To make it easier for councillors to record compliments or concerns about any issue, a dedicated inbox has been created, which is accessible only by councillors. All information received using this method will be treated as confidential and passed to the relevant Service Director.

### Related information:

- *Complaints Procedure*
- *Dedicated email address for feedback*



## ICT Provision

All councillors will be provided with an iPad and/or iPhone to assist with carrying out their role as a ward councillor. In addition, the Council uses mobile devices as its primary method to share agendas and papers with councillors, and communicate with them.

When using these mobile devices, councillors need to be mindful of the Councillors ICT Security Policy and will be asked to sign the Acceptable Use Policy for Mobile Devices when they receive their equipment.

The use of Information and Communication Technology (ICT) helps the Council to provide effective and efficient services and is a vital tool in the work of many councillors. The purpose of the policies is to ensure that, as users of the Council's ICT systems, you are aware of the security risks that are always present and help protect the Council's information from all threats, whether internal or external, deliberate or accidental. The adoption of the policies provides a firm indication that the Council is taking "due care" of information which is one of the basic requirements of the Data Protection Act 1998.

By following the policies, you will help minimise the potential risk of disruption to Council business and help ensure that data held on Council systems remains secure.

As well as the ICT Security Policy, there are also various laws that determine how computers should be used, such as the Computer Misuse Act 1990 and the Data Protection Act 1998. Therefore, to ensure you comply with both the law and Council policy, it is important that you:

- Never let anyone else know your password. You should treat your password as you would your bank card PIN code, and if you have reason to believe that someone knows it you should change it immediately.
- Do not allow anyone else to use equipment that is logged on under your user name.
- Do not make, or attempt to make, any changes to the operating system or settings on Council computers.
- Do not access or attempt to access any files, folders, logs, reports, messages, systems or information that you are not authorised to access.
- Take care to ensure that display screens cannot be overlooked when working on sensitive data.
- If in doubt on any matter relating to computer security, please seek advice from ICT Services.

### Related information:

- *Councillors ICT Security Policy*
- *Acceptable Use Policy for Mobile Devices*



## **Protocol on Advisory Groups**

### **Purpose of Advisory Groups**

1. The Cabinet will draw on the advice and experience of non-Cabinet councillors and will involve them constructively in the process of policy formulation. This can be achieved partly by their involvement in Advisory Groups.
2. The purpose of Advisory Groups is to enable the Cabinet to seek advice before a firm line is fixed, in an informal setting and from a broad range of councillors. Meetings of Advisory Groups will usually be held in response to a request from the Leader or Cabinet for advice on a specific issue or issues. Meetings will focus on a discussion of issues and giving advice rather than arriving at a formal resolution.

### **Structure of Advisory Groups**

3. There are two Advisory Groups as follows:
  - Corporate Resources Advisory Group
  - Policy Advisory Group
4. There is also one other Advisory Group:
  - Gateshead Capacity Building Fund
5. All councillors are invited to attend meetings of the Corporate Resources and Policy Advisory Groups. The Gateshead Capacity Building Fund Advisory Group has a core membership and only those councillors are invited to attend meetings.
6. The Corporate Resources Advisory Group is chaired by the Leader of the Council and the Policy Advisory Group is chaired by a councillor nominated by the Leader from the Policy Advisory Group pool of chairs.

### **Convening and Attending Advisory Groups**

7. The Cabinet will decide whether to seek advice from an Advisory Group on any particular issue. If an officer considers that there is a need for advice to be sought from an Advisory Group then this should be highlighted to the Cabinet within a Cabinet report or approval sought from the Leader of the Council. It is essential that there is clarity why and on what issues the views of an Advisory Group are being sought.

8. Once it has been agreed that a meeting of an Advisory Group should be held, an officer of Democratic Services, Corporate Services and Governance will arrange the meeting. The officer will ensure, as far as practicable, that the meeting is arranged on a date convenient for the Chair, the relevant Cabinet members and the lead officers for that particular issue.
9. Officers should not prepare a formal report for the Advisory Group meeting. Instead, the Advisory Group will be given a presentation outlining the background to the issue, the main points and clearly stating what councillors are being asked to give views on. Officers should also prepare a discussion paper, generally no more than 1 side of A4, to assist their presentation, to be circulated prior to the meeting.
10. All members of the Strategy Group will be advised when Advisory Group meetings are being held and the issues being considered. Strategic Directors need only attend or be represented at these meetings if they consider it appropriate to do so.
11. Advisory Groups can only express views. The Democratic Services Officer will prepare minutes of the Advisory Group summarising all the views expressed, including those issues where there is difference of view. The minutes from the Advisory Group meetings should be attached to any further report prepared for the Cabinet on that particular issue.

## Protocol for Communicating and Consulting with Councillors

Councillors have an important role to play in their wards, taking up issues on behalf of their constituents and acting as a link between them and the Council.

Councillors are entitled to expect that officers will support them in this role. In particular, officers are expected to:

- **Consult** councillors about proposals affecting their ward
- **Communicate** with councillors about things happening in their ward
- **Respond promptly** and effectively to ward issues raised by councillors.

This Protocol sets out how these expectations will be realised in practice.

### Responding to Councillors' Enquiries

1. Officers will acknowledge all enquiries from councillors by the end of the next working day and send a full reply within five working days.
2. When an officer is unable to send a full reply within this timescale, then an explanation will be given to the councillor stating how long the response is likely to take and the reason for the delay.

### Consultation

3. Officers are expected to consult councillors at the earliest opportunity on matters affecting their wards and which are required to go to Cabinet or another body for decision, or on which the officer intends to take a decision under delegated powers.
4. Before consulting with ward councillors, the officer should discuss the matter with the appropriate cabinet member and explain the issues to him/her, making it clear that ward councillors will be consulted.
5. The purpose of consulting ward councillors is to:
  - Make them aware of issues affecting their wards so that, wherever possible, councillors receive this information from the Council before hearing it from any other source;
  - Obtain information and advice from ward councillors on the matter;
  - Ensure that ward councillors' views are recorded and taken into account in the decision-making process.
6. The officer responsible for the consultation will establish personal contact with the ward councillors, either by telephone or email, or by arranging a meeting, with the Cabinet Member in attendance if they both consider it appropriate. The officer will make a written record of councillors' views.

7. While recognising that ward councillors do not have a veto over decisions, their views will always be considered seriously and included in any report to Cabinet (or other body) so that decision-makers are aware of those views. Councillors' views should be used to help inform the preparation of any report, so consultation should not just take place at the 'last minute', when a report is already prepared and may, for example, be entering the time-restricted Cabinet process.
8. The consultation section of the ensuing report should state which councillors have been consulted and any views they expressed, based on the written record referred to above.
9. Officers should be alert to the fact that an issue may affect more than one ward and all relevant councillors should be consulted. The Constitution definition of 'key decision', for example, includes where a matter affects two or more wards.
10. Existing systems in place for notifying ward councillors of planning and licensing applications, and reporting their views, will continue.

### **Councillors' Responsibilities**

11. Councillors should avoid making unreasonable requests or putting pressure on officers to do things that they are not empowered to do.
12. Councillors should be mindful of the increasing pressure placed on officers due to reduced capacity and resources.
13. Councillors need to also bear in mind that there are some kinds of information which they are not entitled to have – for example, personal information about individuals, including their constituents, where the individual has not consented to its release.

### **Officer Responsibilities**

14. Service Directors are responsible to their Strategic Director for ensuring that the requirements of this Protocol are met in relation to the functions for which they are responsible.
15. If more than one officer is involved, for example in a client/client-agent/consultant relationship, they should be clear among themselves who is taking the responsibility.

## PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

***This protocol forms part of the local framework for standards of behaviour approved by the Council's Audit & Standards Committee. Monitoring of compliance with this protocol is the responsibility of the Audit & Standards Committee and the Monitoring Officer.***

### 1. Introduction: The Underlying Principles

- 1.1. The relationship between councillors and officers is fundamental to the successful working of the Council. This relationship within this Council is characterised by mutual respect, honesty and trust. Councillors and officers must feel free to speak to one another openly and frankly. Nothing in this protocol is intended to change this relationship: its purpose is to help councillors and officers to perform effectively by giving guidance on their respective roles and expectations, and on their relationship with each other. The protocol also gives guidance on what to do on the rare occasions things go wrong.
- 1.2. The protocol must be read and operated in the context of any relevant legislation and national and local codes of conduct and any procedure for confidential reporting.

### 2. Roles of councillors and officers

- 2.1. Both councillors and officers are servants of the public and are indispensable to one another in the delivery of their public duties. Their responsibilities, however, are distinct. Councillors are responsible to the electorate, and serve only so long as their term of office lasts. Officers are responsible to the Council: their job is to give advice to the Council, and to councillors in carrying out their Council duties, and to carry out the Council's work under the direction and control of the Council, the Cabinet, and relevant Committees, and Sub-Committees.

***Mutual respect between councillors and officers, and a clear understanding of their respective roles and responsibilities, are essential to good local governance.***

#### 2.2. Councillors

2.2.1. Councillors have five main areas of responsibility:

- (i) giving political leadership;
- (ii) determining the policy of the Council;
- (iii) monitoring, reviewing and scrutinising the performance of the Council in implementing policy and delivering services;
- (iv) representing the Council externally; and
- (v) acting as advocates and Community Leaders on behalf of their wards and constituents.

2.2.2. Subject always to the expectations contained in paragraph 3, it is not the role of councillors to involve themselves in the day to day management of Council services.

### **2.3. Members of the Cabinet, Chairs and Vice Chairs**

2.3.1. Members of the Cabinet and chairs and vice chairs of committees, boards, panels, etc. have responsibilities additional to those set out above, and their relationships with officers may therefore differ from, and be more complex than, those of councillors without such responsibilities; this is recognised in the expectations they are reasonably entitled to have of enhanced levels of support from officers. However, such councillors must still respect the impartiality of officers: they must not ask officers to undertake work of a party political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.

### **2.4. Opposition councillors**

2.4.1. As individual councillors, all councillors have the same rights and obligations in their relationships with officers and should be treated equally. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, it is recognised that the relationship between officers (particularly those in senior management roles) and the administration will differ from that with opposition groups.

### **2.5. Officers**

2.5.1. The role of officers is to give advice and information to councillors and to implement the policies determined by the Council.

2.5.2. In giving advice to councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual councillors on an issue (e.g. in response to a consultation process), if the councillor wishes to express a contrary view, he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

2.5.3. Certain officers (e.g. Head of Paid Service, Monitoring Officer and Chief Finance Officer [Section 151 officer] have responsibilities in law over and above their obligations to the Council and to individual councillors, and councillors must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

## **3. Expectations**

3.1. Councillors can expect the following from officers:

(i) Respect, dignity and courtesy

- (ii) A commitment to the Council as a whole, and not to any political group
- (iii) A constructive working partnership
- (iv) An understanding of, and support for, respective roles, workloads and pressures
- (v) Timely response to enquiries and complaints
- (vi) Professional advice, not influenced by political views or political preference, which does not compromise the political neutrality of officers
- (vii) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold within, or appointed by, the Council
- (viii) Equality of treatment so that the same councillors do not receive disproportionate support due to the manner in which they raise issues
- (ix) Awareness of and sensitivity to the political environment
- (x) Training and development, in order to carry out their role effectively
- (xi) Integrity, mutual support and appropriate confidentiality
- (xii) That officers will not raise personal issues with them outside the agreed procedures
- (xiii) That officers will not use their relationship with councillors to advance their personal interests or to influence decisions improperly
- (xiv) That officers will at all times comply with any relevant Code of Conduct
- (xv) Support for the role of councillors as the local representatives of the Council within any scheme of support for councillors that may be approved by the authority.

### 3.2. Officers can expect the following from councillors:

- (i) Respect, dignity and courtesy
- (ii) A constructive working partnership
- (iii) An understanding of, and support for, respective roles, workloads and pressures
- (iv) Political leadership and strategic direction
- (v) Integrity, mutual support and appropriate confidentiality
- (vi) Not to be subject to bullying or to be put under undue pressure; councillors should bear in mind the level of seniority of officers in determining what are reasonable requests, having regard to the power relationship between councillors and officers and the potential vulnerability of officers, particularly at more junior levels
- (vii) That councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly
- (viii) That councillors will at all times comply with the relevant Code of Conduct.

### 3.3. Limitations upon Behaviour

3.3.1. The distinct roles of councillors and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (i) Close personal relationships between councillors and officers can confuse these separate roles and get in the way of the proper discharge of the Council's functions, not least in creating the



perception in others that a particular councillor or officer may secure advantageous treatment.

- (ii) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, especially personal matters and party political issues.
- (iii) Relationships with particular individuals or party groups should not be such as to create public suspicion that an officer favours that councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

#### **4. Members' Code of Conduct**

- 4.1 In accordance with legislative requirements the Council has a members' Code of Conduct. The Code is intended to be consistent with the Nolan seven principles of public life, and should be read in the light of those principles: namely, that councillors will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 4.2 The Code specifies what general conduct is expected of councillors, including: treating others with respect, not bullying, or conducting themselves in a manner which could reasonably be regarded as bringing the Council, or the office of councillors, into disrepute. The Code also makes provision for registering and declaring councillor interests. Detailed arrangements are also in place for dealing with complaints against councillors. The Code and arrangements can be found on the Council's website.

#### **5 Decision-Making by Managers**

- 5.1 The Constitution delegates to Strategic Directors and other managers, the power to make decisions over a wide range of matters. In some cases, the Constitution provides that the delegation may only be exercised after the manager concerned has consulted the Leader or nominated Cabinet member. Managers must consider carefully any comments made to them by the councillor(s) concerned, but must bear in mind that it is the manager, not the councillor, who takes the decision in these circumstances and is responsible for it. They must also bear in mind that no officer can be compelled to take a decision with which he/she considers to be wrong or inequitable.
- 5.2. A manager is not obliged to take a decision on a matter delegated to him/her: he/she may refer the matter to the appropriate Council body for a decision. Indeed, managers should do this if they feel that the issue is a particularly contentious one raises some new issues which were not contemplated when the delegation was first agreed.

#### **6 The Council as Employer**

- 6.1 The Council is collectively the employer of all Council employees. It is responsible for settling the terms and conditions on which people are employed, and the human resources framework by which they are managed.
- 6.2 It is important that councillors are clear about the Council's, and their own, role in relation to the management of employees. Councillors must ensure that, by their

individual actions, they do not act outside the framework established to deal with employee matters or contrary to Council policies and procedures in relation to employees.

- 6.3 Under the Constitution, the Council has delegated to managers the responsibility for appointments, dismissals and disciplinary action, and for dealing with employee matters in accordance with the Council's human resources framework and the relevant national conditions of service. Councillors are responsible for:
- (i) Certain senior appointments (through the Special Appointments Committee and/or the full Council)
  - (ii) Settling terms and conditions and the human resources framework (through Cabinet and full Council)
  - (iii) Determining appeals from employees of the Council in relation to conditions of service, discipline and so on (through the Personnel Appeals Committee).
- 6.4 It is essential to the proper running of the Council that councillors and officers do not step outside this framework. Officers must not raise with councillors personal matters to do with their job, nor make claims or allegations about other employees. For their part, councillors must not attempt to deal with any such matters raised by officers, but should remind the officer that such matters should be dealt with through the appropriate consultation, grievance or confidential reporting procedure. Councillors should not, for example, seek to 'represent' any officer during any management process such as disciplinary or grievance proceedings.
- 6.5 If a councillor has concerns about the management of a particular service, they should raise those concerns with the appropriate Service Director or Strategic Director, or ultimately with the Chief Executive.
- 6.6 Employee relations matters and disputes need to be handled particularly carefully. Councillors need to remember that it is the Council that is the employer and that every councillor is part of the Council. Where disputes arise, they will be handled corporately. It would be extremely damaging to the Council's position, and to relationships with employees, if individual councillors were to act independently of the Council. In particular, individual councillors or groups of councillors should not hold separate formal discussions with employees and purport to represent the Council.
- 6.7 In all matters relating to employees, councillors should bear in mind that because they are, collectively, the employer, the actions of an individual councillor may incur liability for the Council.

## **7 Councillors' Access to Information and Advice**

### **7.1 Documents**

- 7.1.1 Councillors' legal rights to inspect Council documents are covered partly by statute and partly by common law. Councillors generally have a statutory right to inspect agendas, minutes and background papers of the Council, the Cabinet, Overview and Scrutiny Committees, the Council's regulatory committees (e.g. Planning & Development, Licensing and

Regulatory Committees) and the Audit and Standards Committee. However, this does not apply to certain items that are regarded as exempt business: for example, because they relate to individual employees, to contract or industrial relations negotiations, to applicants for Council services and so on. These rights are set out more fully in the Access to Information Rules, which are detailed in the Constitution. Councillors also have the same rights under the Freedom of Information Act 2000 as the general public to access recorded information held by the Council.

- 7.1.2 The common law right is broader. It is based on the principle that any councillor has, on the face of it, a right to inspect Council documents if access to those documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This is often referred to as the 'need to know' principle.
- 7.1.3 It is for the councillor concerned to demonstrate that he/she has a 'need to know'. Mere curiosity is not enough.
- 7.1.4 The Strategic Director, Corporate Services and Governance will give advice on councillors' rights of access to documents and any questions on this subject should be directed to him/her.
- 7.1.5 Any Council information provided to a councillor must only be used by the councillor for the purpose for which it was provided, namely in connection with the councillor's duties as a councillor, unless the information is already in the public domain.
- 7.1.6 The Code of Conduct provides that a councillor must not disclose information given to him/her in confidence by anyone without the consent of a person authorised to give it, or unless he/she is required to do so. Equally, a councillor must not prevent another person from gaining access to information to which that person is entitled by law.
- 7.1.7 If a councillor is not receiving, or is having difficulty in obtaining, information that is needed, or to which he/she considers he/she is entitled, the councillor should contact the relevant Strategic Director or, ultimately, the Monitoring Officer, for advice.

## 7.2 Advice

- 7.2.1 Councillors may ask appropriate officers (normally at Service Director level or above) for advice on:
  - (i) Matters likely to come before the Council, the Cabinet or another decision-making body or an Overview and Scrutiny committee (for example, an item in the Schedule of Decisions or a planning application);
  - (ii) Matters with which they have to deal as ward councillors; or
  - (iii) Matters which they may have to deal with as a representative of the Council on an outside body.

- 7.2.2 Where advice is sought through a Strategic or Service Director, in the interests of efficiency, the Director will arrange for the advice to be provided by an officer best placed to deal with it, at whatever level.
- 7.2.3 In general, Services will adopt a 'right person, right setting' approach so that the most appropriate officer, of whatever level, will advise and assist in whatever setting, including attendance at portfolio meetings and other councillor non-decision making meetings.
- 7.2.4 Officers will provide such advice to the best of their ability, together with any relevant information to which the councillor is entitled to have access, in accordance with the principles set out in section.7 above.
- 7.2.5 Where an officer has provided advice on a matter in the Schedule of Decisions, he/she should inform the relevant Cabinet member and the Leader. Where the advice relates to a matter going before another decision-making body, such as a licensing or planning application, the Chair of that body should be informed.
- 7.2.6 If it appears that any request for advice or information is excessive or unreasonable, the matter should be taken up with the appropriate Strategic Director, ultimately, the Strategic Director, Corporate Services & Governance.

## **8 The Mayor and officers**

- 8.1 The role of Mayor of Gateshead is not merely a traditional one, important though that is. The position is well understood and respected by the people of Gateshead, and because the Mayor is a focal point for the diverse communities of Gateshead, it is a position that contributes greatly to the Council's goal of social inclusion, and citizen engagement.
- 8.2 Officers should treat the Mayor with the respect due to his/her office. They should address him/her by his/her title. Officers must do everything possible to ensure that the dignity of the office is upheld.
- 8.3 The role of Mayor is an onerous one, and the Mayor is entitled to look for support and advice from all levels of the organisation.

## **9 The Leader and Cabinet and officers**

- 9.1 The Cabinet collectively takes decisions in the name of the Council, provided those decisions are within the Council's budget and policy framework. In addition, Cabinet members individually have portfolios through which they lead change, publicly present issues, lead consultation exercises and generally represent the Council.
- 9.2 It is clearly important that there should be a close working relationship between Cabinet members and Strategic Directors, Service Directors and other senior managers of the authority. A similarly close working relationship should prevail

between a portfolio holder and the senior managers working in that portfolio area. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Director managers' ability to deal impartially with other members or with other elements of the Council democratic framework.

- 9.3 When dealing with portfolio issues, both Cabinet members and the officers who advise them should be aware of the wider policy implications for the Council and the need to involve other members and officers where appropriate.
- 9.4 All reports to the Cabinet are submitted in the name of the Chief Executive and/or one or more Strategic Directors. Those persons are responsible for the contents of reports submitted in their name.
- 9.5 Dialogue between officers and Cabinet members, and briefing of the Cabinet collectively and of individual members, are to be encouraged. It is also quite proper, and desirable, for officers to discuss with members alternative ways of achieving the Council's agreed policy objectives. However, authors of reports must take responsibility for their reports and must not include any advice which they do not believe to be proper or in the Council's interests, or any information which they do not believe to be correct, unlawful or illegal. For their part members must not put officers under pressure to give such advice or information. Any difficulties in this regard should be raised by the officer with his/her Service Director or Strategic Director or ultimately with the Monitoring Officer.

## **10 Chairs and Members of Overview and Scrutiny and officers**

- 10.1 The Council does not formally separate officer support between the Cabinet and the Overview and Scrutiny function. Indeed, the Scrutiny function in Gateshead is seen as an integral part of the Council's framework, working within that framework to enhance policy making. However, officers who have to advise the Cabinet and then account to Overview and Scrutiny Committees for that advice could find themselves in a difficult position unless there are conventions in place to deal with that situation.
- 10.2 As part of the Overview and Scrutiny Rules that appear elsewhere in this constitution, the Council has adopted a number of conventions including:
- 10.3 To avoid putting junior employees under undue pressure, only officers of Service Director level or above will normally be invited to attend Overview and Scrutiny Committee meetings, although more junior officers could be invited following consultation if appropriate;
- 10.4 An officer is entitled to be accompanied by another officer. Indeed, it will often be the most effective way of responding to the Committee's enquiries if the manager responsible for the service is accompanied by a specialist officer with detailed knowledge of the topic;
- 10.5 The Chief Executive is entitled to make representations if he/she feels that an inappropriate officer has been asked to attend;

- 10.6 An officer may undertake to give a written answer, or ask for time to seek further information, if he/she feels it is appropriate.
- 10.7 When attending Overview and Scrutiny Committees, officers should confine their information and evidence, as far as possible to questions of fact and explanation relating to policies and decisions. They should also, if required, explain and justify advice they have given to the Cabinet, and the decisions they have themselves taken under delegated powers. As far as possible, officers should avoid being drawn into discussions of the merits of alternative policies where this is politically contentious, and their comments should always be consistent with their obligation to be politically impartial.
- 10.8 Members of Overview and Scrutiny Committees should bear in mind that officers' evidence should be restricted to questions of fact and explanation, and should not press officers to go outside that remit.
- 10.9 Cabinet members should bear in mind that officers who are called before an Overview and Scrutiny Committee are obliged to provide frank and honest explanations of the advice they have given, even where that advice was not taken.

## **11 Chairs and Members of Other Committees and officers**

- 11.1 The Council has a range of committees that deal with 'non-executive' matters. The main ones are:

- (i) the Planning and Development Committee
- (ii) the Licensing and Regulatory Committees
- (iii) the Rights of Way Committee
- (iv) the Appeals Committee
- (v) the Personnel Appeals Committee
- (vi) the Audit and Standards Committee
- (vii) the Accounts Committee

- 11.2 Some officers, as part of their normal duties, will be in regular contact with the chair and members of these committees. Much of what is said in section 7 about the relationship between officers and the Cabinet will also apply, allowing for the different circumstances, to the relationship between officers and chairs/members of non-executive committees.

- 11.2.1 To summarise, the main principles are:

- (i) officers will need to maintain a close relationship with the chairs/councillors concerned, but
- (ii) that relationship must not be such as to call in to question officers' impartiality;
- (iii) there should be dialogue between senior managers and the relevant chair
- (iv) it is the authors' responsibility to ensure that reports include only proper advice and correct information; and
- (v) councillors must not put officers under pressure to give advice or information in any other way.

## **12 Officers and Political Groups**

- 12.1 Officers are politically neutral and must be seen to be so. They serve the whole Council and not a political group. Senior officers cannot be a councillor for the employing Council, nor can they speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party.
- 12.2 However, it is recognised that from time to time there will be occasions particularly on major policy matters, when it is in both the Council's and the group's interests that a political group should receive the professional advice of officers on a specific matter.

A protocol has been agreed to cover these situations. This is attached as Annex 3A.

## **13 Councillors in their Ward Role and officers**

- 13.1 All councillors have a vitally important role to play as representatives of their wards and communities. Officers have a duty to support them in this role.
- 13.2 Officers should respond positively to requests for councillors, in their ward role, for advice (see paragraph 6.8) or for assistance in dealing with a ward matter.
- 13.3 Clearly, officers must not go outside the Council policy in attempting to resolve a ward issue, and there must be no suggestion that any person has received preferential treatment simply because he/she has taken the matter up through a member. For their part, councillors must not expect officers to go outside Council policy or distort the Council's agreed priorities, for example by insisting that works are undertaken when they wouldn't normally be done because of service reductions. However, if it is clear that the application of a Council policy would cause unreasonable hardship, or would have some consequence that may not have been foreseen when the policy was drawn up, it is proper and reasonable for the matter to be drawn to the attention of the relevant Strategic Director, who will then consider how the matter should be pursued.
- 13.4 Protocols have been drawn up to cover a number of specific situations relating to members in their ward role. These are:
- (i) public meetings (annex 3B)
  - (ii) candidates at local elections (annex 3C)
  - (iii) parliamentary candidates (annex 3D).

## **14 Other Individuals who are Members of Council Bodies**

- 14.1 A modern system of local government requires the development of effective relationships between the Council and local people and organisations. Often this leads to the direct participation of local people and organisations in Council bodies.

- 14.2 This participation can take many forms. At the most formal level, church and parent governor representatives must be appointed by law to the relevant Overview & Scrutiny committee, with full voting rights on education matters. Other arrangements may be less formal, for example the co-option of individuals outside the Council (without voting rights) onto advisory groups or Overview and Scrutiny committees, or the involvement of a range of organisations on different partnership boards.
- 14.3 It goes without saying that, whatever the formal position, people from outside the Council who serve on Council bodies must be treated with respect and encouraged to feel that they have an equal contribution to make with their Council and non-Council colleagues. They should never be left feeling that they are 'second class' members of the body to which they belong. Impressions can be very important here; for example, officers should take care to include non-Council members in the informal conversations that often take place at the beginning or end of meetings.
- 14.4 Normally non-Council members will be entitled to receive the same information relating to the work of the body they serve as their Council colleagues and to be included in the same events (visits to facilities and so on). However, non-Council members will not have a right to be supplied with information that is not related to the Council business with which they are concerned - unless of course that information would be available to other members of the public.
- 14.5 Officers whose role it is to advise bodies on which non-Council members serve must ensure that they are absolutely clear about the legal status of those members - whether they have voting rights on some or all of that body's business, which items they can speak on and so on. Officers who undertake this role must be ready to give the necessary advice, but should avoid creating a difficulty where none exists.

## **15 Press Releases**

- 15.1 Official press releases on behalf of the Council will be prepared and circulated by the Council's Communications service.
- 15.2 It is councillors collectively who are ultimately accountable for the services provided by the Council and the Council's developments and achievements. Official press releases will therefore give proper weight to the role of the relevant members in each case. In particular, Cabinet members have a role under the constitution to publicly present issues and policies as they develop and this should be borne in mind in all contacts with the media. Where practicable, ward councillors should be informed on matters affecting their wards in particular, prior to release.
- 15.3 Any official publicity must conform to the requirements of the Code of Recommended Practice on Local Authority Publicity issued by the Secretary of State under the Local Government Act 1986.
- 15.4 There is of course nothing to prevent any councillors from communicating with the media or on individual basis, but councillors should bear in mind that they



are not doing so on behalf of the Council and they should not use Council facilities for this purpose.

- 15.5 In making public statements on their own account, councillors should seek to ensure that, as far reasonably possible, they have verified the information and that such statements are justified and proportionate and do not adversely affect the interests of the Council and its residents.

## **16 Correspondence**

- 16.1 Except in very exceptional circumstances, all letters on official Council business should be sent out over the name of the appropriate officer. (An exception might be, for example, the Leader of the Council raising an issue on behalf of the Council with a Government Minister).
- 16.2 This does not, of course, prevent a councillor responding in his/her own name to a letter addressed to him/her in his/her official capacity (e.g. Cabinet member, chair of a decision-making body) or as a ward councillor, such as a letter of complaint. In these situations, councillors are free to seek advice from appropriate officers and would often be well advised to do so, for example if approached about a planning application.
- 16.3 Letters that create obligations or give instructions on behalf of the Council should never be sent out over the name of a councillor.

## **17 Use of the Council's Resources**

- 17.1 It is an established principle that a modern council will rely on the ability of all of its members, whether in the executive or backbench role, to adapt to different ways of working. All councils should give those serving as councillors or as co-opted members the officer support, facilities and training necessary for them to fulfil their role, be it executive or otherwise, as effectively as possible.
- 17.2 The Council endorses these principles and accordingly seeks to provide councillors with a range of support services, including:
- (i) stationery, typing and photocopying
  - (ii) The use of certain employees, such as the Councillors' Secretary and support staff in the Cabinet Office
  - (iii) An increasingly wide range of ICT services, including some services that can be used by councillors in their own homes, such as iPads, internet access and printers.

It is important that all these support services are used properly, to support the work that councillors carry out as councillors. They should not be used in accordance with policies in force, such as the Acceptable Use Policy and Councillors' ICT Security Policy.

- 17.3 In using the Council's ICT resources, councillors must comply with the councillors' ICT Security Policy. Failure to comply could have serious consequences for the Council, for example in exposing it to legal liability.

- 17.4 Councillors should take care not to put members of staff - particularly those who provide support to them - under pressure to carry out tasks that they are not authorised to do.
- 17.5 The Code of Conduct requires councillors, when using the Council's resources or authorising their use by others, to act in accordance with the Council's reasonable requirements.

## **18 If things go wrong**

### **18.1 Procedure for officers**

From time to time, the relationship between councillors and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally through resolution involving senior management or councillors, it is open to officers to make a formal complaint under the members' Code of Conduct.

### **18.2 Procedure for councillors**

In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Strategic Director. Where the employee is the Chief Executive the matter should be raised with the Monitoring Officer. Attempts will be made to resolve the matter informally but if this is ineffective it may be necessary to invoke the Council's disciplinary procedures.

## **Protocol – Officer Attendance at Political Group Meetings and Other Political Meetings**

### **1. Introduction**

- 1.1 This protocol gives guidance on responding to requests to attend political group and other political meetings, and on how officers should conduct themselves at such meetings.

### **2. Political Group Meetings**

- 2.1 This part of the Protocol refers to meetings of any of the political groups represented on the Council.
- 2.2 The attendance of officers at political group meetings must be handled properly. Officers are, of course, politically neutral and must be seen to be so. They serve the whole Council and not a political group.
- 2.3 From time to time there will be occasions, particularly on major policy matters, when it is in both the Council's and the group's interest that a political group should receive the professional advice of officers on a specific matter.
- 2.4 When these situations arise, it is essential to have mechanisms in place to avoid any possible conflict of interest or misunderstanding. The following Rules will therefore apply:
- (i) officer attendance at political group meetings must be agreed with the Chief Executive, who will decide who should attend and the subject matter of the item; and
  - (ii) an officer who attends a political group meeting must be accompanied by another officer.
- 2.5 At the meeting, officers should confine themselves to questions of fact and explanation relating to policies and recommendations.
- 2.6 Officers must maintain the confidentiality of proceedings of political groups. However, it is proper for an officer to debrief his/her senior officer on matters which they need to know (for example a Service Director may debrief his/her Strategic Director). It is also proper for an officer to debrief:
- (i) the Chief Executive
  - (ii) the monitoring officer and/or the section 151 officer in relation to matters of that they need to be aware in order to carry out their statutory roles.
- 2.7 In this, as in other situations, councillors and officers will treat each other with courtesy and respect.

### **3. Other Political Meetings**

- 3.1 Requests are also sometimes received for officers to attend other meetings of a political nature, for example a branch meeting of a political party.
- 3.2 All such requests must be referred to the Chief Executive, who will decide whether or not it should be accepted. In considering whether to accept a request, the prime consideration will be whether it is in the Council's interests, in terms of imparting information and explaining the Council's position on significant policy issues that officers should attend. There is no obligation to accept any request.
- 3.3 Where it is agreed to accept a request, the meeting must always be attended by two officers.
- 3.4 When attending political meetings:
  - (i) officers should confine themselves to questions of fact and explanation relating to policies and recommendations (paragraph 6 applies)
  - (ii) officers should maintain confidentiality, but may brief more senior officers on matters that they need to know (paragraph 7 applies).

### **4. Ward Surgeries**

- 4.1 Officers will not normally attend ward surgeries. However, all officers will be expected to deal promptly and efficiently with any queries, service requests or other issues that may be referred to them by councillors arising from their ward surgeries.

## Protocol – Public Meetings

1. Public meetings are a valuable means of consulting on issues of local concern. They provide the Council with a means of explaining its position and allowing local people to understand the issues involved.
2. The Council arranges many public meetings on its own initiative. In addition, requests for such meetings may also come from councillors and occasionally from other individuals and interested groups. Normally these requests do not cause a difficulty but occasionally the issues involved can raise local sensitivities particularly in wards where there is mixed political representation. At times, adverse comments have been made about the Council's role in providing facilities and officers to attend at such meetings.
3. To ensure a consistent approach and avoid any possibility of misunderstanding the role of officers in such situations, the following administrative arrangements will apply:
  - (i) Requests for public meetings should be directed to the appropriate officer who will;
    - consider the request in consultation with the relevant portfolio holder alongside the Council's current policy on the matter
    - ensure that there is no conflict of interest with Council policy
    - ensure all Ward councillors are invited to attend the meeting.
  - (ii) Subject to the request being made by a councillor and the above conditions having been met, the appropriate officer will be responsible for booking and paying for the accommodation and for arrangements for the attendance of the relevant officers.

No meetings should be held between publication of the Notice of Election and Election Day.

4. If an individual councillor wishes to arrange a public meeting on his/her initiative and outside these arrangements, there is nothing to stop him/her doing so, but in that case, the Council will not pay for the accommodation and officers will normally attend only if the other Ward councillors have been invited also.

**Protocol – Candidates at Local Elections**

1. This note gives advice to officers on dealing with requests for advice or assistance from people who are standing as candidates at local elections, whether by-elections or the annual municipal elections.
2. If a candidate asks for advice or assistance on a matter relating to a constituent or affecting the area of the ward, the request should be treated as if it was coming from an individual on behalf of a constituent. It should be dealt with like any other such request; that is with courtesy and an attempt to help.
3. Where the candidate says that the matter has been raised by a constituent or constituents, he/she should be informed that officers will look into the matter and if he/she will provide the name of the constituent(s) who have raised it, officers will write to them directly. If the issue is one of more than individual concern, such as a complaint about the tidiness of an area, the response should also say that officers will inform the ward councillors and discuss it with them. But this is not required where the issue relates to one individual or household, for example a repair request or an inquiry about re-housing.
4. Sometimes a candidate may raise a matter apparently on his/her own initiative and without making any reference to it having been raised by constituents. In this case, officers should deal with it in the normal way and respond to the candidate as to anyone else who has requested assistance or information. It will not be necessary to inform the ward councillors unless the matter is judged to be particularly significant.
5. No preference should be given to any one candidate's request and no personal or confidential information should be given to candidates.
6. The situation is somewhat different when one of the ward councillors is himself/herself a candidate at the election. In this case, he/she remains the ward councillor right up until the day of retirement (the fourth day after the election) and should continue to be treated as such. This means, in particular, that if the ward councillor raises an issue on behalf of constituents, officers will correspond with him/her directly and without involving other ward councillors.
  - a. Note: a separate protocol applies in relation to candidates at parliamentary elections.
  - b. There are sometimes circumstances where no election has yet been called but individuals hold themselves out as being candidates. In this situation, the same Rules apply.

**Protocol – Parliamentary Candidates**

1. The first thing to note is that, once Parliament has been dissolved, there are no longer any Members of Parliament, only parliamentary candidates.
2. All parliamentary candidates should be treated the same and given the same facilities and opportunities. No preference should be given to any particular candidate. If a candidate asks to visit a particular facility, officers should take account of the views of residents and users in deciding whether a visit can be allowed. It is quite reasonable for conditions – such as no photographs – to be attached to visits where appropriate. The key principle is that all candidates are treated equally; whatever is allowed to one candidate must be allowed to others, with the same conditions applying.
3. All candidates or their agents may hire or book rooms for the purposes of holding meetings and so on. Again, no preference should be given to any one candidate.
4. There will be no MPs surgeries during the election campaign.
5. Requests from parliamentary candidates for advice or assistance for a constituent should be processed in the normal way. Again, no preference should be given to any one candidate's request, and no personal or confidential information should be given to candidates. It is no longer a matter of dealing with MPs and therefore the request should be treated as if it were coming from an individual on behalf of a constituent. It should be dealt with as the Council would deal with any such request, that is with courtesy and an attempt to help. Officers should indicate that they are going to look into the matter and if the candidate will provide the name of the constituent(s) who have raised it, officers will write to them directly. Where the matter has been raised by the candidate apparently on his/her own initiative without reference to constituents, officers should respond directly to the candidate.
6. The situation is somewhat different when a serving councillor for the Borough stands as a parliamentary candidate for a constituency that covers his/her ward. In that case, the councillor should continue to be treated as the ward councillor in relation to any matter relating to his/her ward; if he/she raises an issue on behalf of constituents in the ward, officers will correspond with him/her directly. However, if the issue does not relate to the councillor's ward, it should be treated as if it had been raised by any other candidate and dealt with as set out in paragraph 5.
7. The statutory Rules apply in relation to party political publicity. This means that election posters clearly seeking support for a political party are not permitted on Council property. In cases of doubt please contact the Strategic Director, Corporate Services and Governance.
8. Enquiries about matters relating to the election should be directed to the Service Director, Litigation, Elections and Registrars or the Election Office. The Election Office will supply a list of candidates and election agents as soon as it is available.

***Note: a separate protocol applies in relation to candidates at local elections.***



## PROTOCOL FOR COUNCILLOR LEARNING AND DEVELOPMENT

Gateshead Council is committed to the learning, training and development of all its councillors.

### 1. Roles and Responsibilities

Political group leaders have pledged their commitment to learning and development for councillors. A cross-party Councillor Support and Development Group was established in 2008, to monitor and advise on the Council's current and future arrangements for councillor development. This group is responsible for:

- Helping their peers to identify and find opportunities to meet their learning and development needs, usually via the Personal Development Plan (PDP) process.
- Creating an environment that encourages self-development and continuous learning and the sharing of knowledge and skills amongst the councillors in the political groups.
- Encouraging councillors to attend seminars and other appropriate training and development events on a regular basis
- Encouraging councillors to complete a Personal Development Plan and take part in their own political group appraisal schemes
- Assessing value for money in learning and development and ensuring adherence to equal opportunities principles
- Monitoring the application of this policy by evaluating the outcomes of what the councillors have achieved via their PDPs, as well as reviewing the framework established to support them in their development.

All councillors have individual responsibility to:

- identify their own learning and development needs by completing a Personal Development Plan
- seek opportunities to improve their effectiveness and increase their potential
- undertake to attend once during each term of office, those training courses that are essential including:
  - Ethics, probity and Code of Conduct
  - Training relating to committee membership, and
  - Equalities
  - Children and Adults Safeguarding
- share their knowledge and skills with their peers.
- review and evaluate learning and development activities so as to apply increased knowledge, skills and personal qualities developed through the activities.

### 2. Resources

The Council provides a budget for councillor development. This budget will cover priority needs linked to corporate, constitutional and individual learning and development requirements as identified in Personal Development Plans. The full cost



of all learning and development will be identified and monitored by the Councillor Support and Development Group through regular reviews.

Councillors' entitlements to travel and subsistence and dependent carers allowance for attendance at learning and development events, is stated in the Councillors' Scheme of Allowances.

### **3. Accessing Learning and Development Opportunities**

The methods to be considered will be both internal and external and will cater for the variety of roles councillors are expected to undertake and will take into account the Council's priorities as well as the Councillors' Personal Development Plans.

Every effort will be made to ensure that internal resources or resources from partner groups are considered initially. They will include:

- Internal: induction, access to Intranet, Internet (per Internet Policy) and e-learning, seminars, training courses, workshops, mentoring, briefings (including repeat sessions for councillors unable to attend initial session).
- External: induction, peer support/councillor mentoring, focused visits, workshops, regional and national training courses, seminars and conferences.

### **4. Evaluation**

So that the return on investment in learning and development is secured, it is the responsibility of the Councillor Support and Development Group, with support from officers, to ensure that evaluation takes place at the following levels:

- Immediate review (eg. that the learning and development activity was satisfactory and gave value for money) via feedback questionnaires.
- Acquisition of skill, knowledge and personal qualities (eg that the required levels of knowledge, skill or personal qualities have been acquired) via PDP reviews.
- Performance improvement (eg. knowledge, skill, new behaviours or personal qualities are being applied in practice and improvements have resulted).
- High level review (eg that increases in skills, knowledge or personal qualities acquired through learning and development have been relevant and made direct contributions to the achievement of Council objectives).



### **Protocol for Councillors' Attendance at Meetings**

1. A proper programme of training and development will ensure councillors are able to undertake their full range of functions and, in particular, to attend and participate effectively in all meetings of Council bodies of which they are designated members.
2. Councillors should aim to attend 100% of meetings of Council bodies, unless there is a reasonable excuse for not doing so.
3. If councillors are unable to attend a meeting, they should inform the relevant Democratic Services Officer as soon as they are able.
4. A persistent failure to attend meetings, without reasonable excuse, could be viewed as bringing the office of councillor into disrepute and a potential breach of the Councillors' Code of Conduct.
5. Councillors are reminded of the provisions of Section 85 of the Local Government Act 1972, which provides that if a councillor fails to attend a formal meeting of the Authority for six consecutive months, then they cease to be a member of the Authority, unless full Council agrees the reason for the non-attendance, prior to the end of the six month period.

**Role Description: Member of an Outside Body**

Role	Actions	Skills/Behaviour
1. To participate in the activities of an outside body to which the councillor is appointed.	By: <ul style="list-style-type: none"> <li>• developing and maintaining a working knowledge of the policies and practices in relation to that body</li> <li>• showing a willingness to learn from the experience and advice of others and to apply this learning to become more effective</li> <li>• exercising your right to speak and vote if eligible to do so</li> </ul>	These include: <ul style="list-style-type: none"> <li>• assertiveness/assurance</li> <li>• listening</li> <li>• understanding legal basis</li> <li>• probity</li> <li>• objectivity</li> <li>• mediation</li> <li>• networking</li> </ul>
2. To provide two way communication between the Council and the outside body	By: <ul style="list-style-type: none"> <li>• keeping the Council informed of the proceedings of that outside body, subject to any issues of confidentiality</li> </ul>	These include: <ul style="list-style-type: none"> <li>• listening</li> <li>• probity</li> <li>• understanding legal basis</li> </ul>
3. Acting in the best interest of the body to which the councillor is appointed.	By: <ul style="list-style-type: none"> <li>• attending board/management committee meetings and following rules on declaration of interests</li> <li>• demonstrating integrity and impartiality in decision making</li> <li>• recognising and understanding where conflicts of interests occur and seeking advice on how to handle them</li> <li>• taking responsibility for all main decisions in relation to the operation of the body to which you are appointed</li> </ul>	These include: <ul style="list-style-type: none"> <li>• working constructively to achieve realistic solutions</li> <li>• ability to question and challenge.</li> <li>• probity</li> </ul>
4. To comply with the Code of Conduct, unless that body is another relevant authority which has its own Code, or	By: <ul style="list-style-type: none"> <li>• promoting and maintaining high standards of conduct for councillors</li> </ul>	These include: <ul style="list-style-type: none"> <li>• awareness of the Code of Conduct</li> <li>• awareness of current guidance</li> </ul>

Role	Actions	Skills/Behaviour
unless observance of the Code would conflict with any other obligations (ie the duty to act in the best interests of the outside body).	<ul style="list-style-type: none"> <li>undertaking a duty of confidentiality – to both the Council and outside body. Not to take advantage of receiving confidential information or deliberately leaking information</li> </ul>	
5. To be aware of the level of cover of any insurance or indemnity provided to members appointed to the body.	By: <ul style="list-style-type: none"> <li>seeking advice and support from the Council's Strategic Director of Legal and Corporate Services, regarding whether appropriate insurance cover is in place</li> </ul>	These include: <ul style="list-style-type: none"> <li>awareness of current guidance</li> </ul>



## **Protocol on Appointments to Outside Bodies The Councillors' Roles – General Guidance and Potential Pitfalls**

### **1. Introduction**

Alongside their involvement in the Council itself, it is usual for councillors to be involved in a wide range of outside bodies, including community organisations, sports and recreation clubs, housing associations and companies.

Sometimes members will be appointed to sit on these organisations by the Council itself, for example to discharge Council duties through formal partnerships, or as formal appointments to national or regional 'representative' roles, such as on the LGA, ANEC or the Combined Authority. In other cases, the member may be appointed independently of any Council involvement. This guidance deals predominantly with those instances in which the Councillor has been nominated or appointed onto the outside body by the Council.

Councils and the outside bodies themselves can gain a number of benefits from councillors being involved in their leadership and governance:

- To provide knowledge, skills and expertise which may not otherwise be available
- To provide local accountability or democratic legitimacy through the appointment of an elected representative
- To ensure that good relationships can be maintained with the body
- To deliver a partnership project that requires the input of other organisations or community groups
- To protect the Council's investment or assets: e.g. if the Council has provided grant funding or provides funding for service delivery
- To lever in external funding which would not be available to the Council on its own

There are a number of types of outside bodies in which members may become involved as a representative appointed by the Council. Some common examples are:

- National or regional body
- Charitable Trust
- School and Academies Boards of Governors
- Company limited by shares
- Company limited by guarantee
- Unincorporated association
- Industrial and provident society (mainly housing associations)

The structure of each type of organisation, the management, and the rules which govern the organisation, vary. The following table shows how each type is set up and managed:

<b>Legal Status of the organisation</b>	<b>Governing Document</b>	<b>Management</b>	<b>Possible councillor involvement</b>	<b>Common types of organisation</b>
A public authority	Constitution usually based on legislation	Authority	Member	Combined Authority Fire & Rescue Authority
Charitable Trust	Trust Deed	Trustee meetings	Trustee	Playing field trusts
Company limited by guarantee	Memorandum and Articles	a) Board of Directors b) Meetings of members	Director (may also be known as a trustee, governor or Board member)	Charitable organisations, housing companies, community associations, academy trusts
Company limited by shares	Memorandum and Articles	a) Board of Directors b) Meetings of shareholders	Director	Commercial organisations (e.g. joint ventures or companies providing contractual services; trading subsidiaries)
Unincorporated association	Constitution	Management Committee Members meeting	Management Committee member	Community associations

Regardless of how the appointment is made, the law lays down many requirements with which councillors must comply. These may include duties to the Council, as well as duties to the outside body and its members.

An appointment to an outside body does not, therefore, necessarily mean that you will be representing the Council's interests on that outside body. Indeed there are a number of cases, for example if you are a trustee or a company director, where you must always act in the interests of the outside body and not necessarily in the Council's interests.

This can lead to conflicts of interests between your role as a Councillor and your representative role on the outside body.

You will only be considered a representative of your Council on an outside body if you have been formally appointed or nominated by the Council to this role. You should not purport to act as Council representative on an outside body unless a formal appointment has been made.

Set out below are a number of matters that you should take into account if you act on one or more outside body.

## **2. Appointment and reporting back**

Your appointment should be within any policy your Council has adopted for involvement in partnerships and outside bodies (for example the protocol on local authority school governors). This policy may explain some of the reasons why the Council may wish to appoint a representative e.g. in order to provide skills or democratic legitimacy, or to protect the Council's assets, or for other reasons.

You must ensure that your appointment has been made in accordance with the Council's Constitution. This is usually done either by resolution of Council or Cabinet.

It is important that anyone who is appointed to an outside body provides information and reports periodically to the Council on what the organisation is doing. The Council may have adopted an approach on how and when such reports are to be presented. You should ensure that the outside body provides you with sufficient information to enable you to make this report back. BUT - you are not required to disclose anything which is commercially confidential as this may be in breach of:

- the Members' Code of Conduct;
- your duties of confidentiality to the outside body (whether as director, trustee or more generally); or
- may be a breach of confidence in the general sense, such as releasing information covered by data protection legislation.

### 3. General Advice and Guidance to Councillors Appointed to Outside Bodies

As a minimum you should:

- Ensure that you know the legal status of the organisation – refer to the table above and read the governing document to understand your responsibilities; if still unclear, seek advice from the Strategic Director, Corporate Services & Governance;
- Ensure that if you are appointed a director of a Company the relevant form (form 288) is filed at Companies' House upon your appointment and resignation;
- Make any general declarations of interest at the first meeting (see section 7 below);
- Ask if there is any personal liability insurance or indemnity in place – sometimes referred to as directors' liability insurance (see section 8 below);
- Clarify whether the organisation will pay allowances or expenses (see section 8 below);
- Ensure the board or management committee has regular financial and other reports which detail the current financial situation of the organisation and any liabilities - take an interest in the business plan;
- Discuss with relevant officers any new activities that the outside body undertakes (you may need to provide them with copy papers) and ensure that risks are properly identified in reports (consistent with local authority decision making - ensure that all relevant information is presented);
- Observe duties of confidentiality (in both directions) (see section 7 below);
- Carefully consider any conflicts of interest, declare interests, and if appropriate, leave the room for consideration of the business (see section 6 below);
- Take advice from the Monitoring Officer, the Chief Finance Officer and your lead officer contact within the Council as appropriate - not just if the organisation is likely to become insolvent, but generally. Occasionally, that advice may be to seek external advice on your position, especially if there is a conflict between the organisation and the Council;
- Manage conflict - usually issues can be balanced, but ensure that when in meetings of the body you act in the body's best interests which may not necessarily be those of the Council - if all else fails, resign. Do not just remain a director and fail to attend meetings or you may find that you are in breach of your duty to act in the best interests of that organisation (see section 6 below); and
- Finally, question the need for future Council involvement! Has the organisation come of age, or has it changed direction from when the Council first became involved - what useful purpose would ongoing representation serve?



#### **4. Particular Duties and Responsibilities of Directors and Trustees**

If you are appointed a director of a company then you must act in the best interests of the company. The main duties of a director are:

- to act honestly and in good faith and in the best interests of the company as a whole;
- a duty not to make a personal profit and to take proper care of the company's assets;
- to attend board meetings and follow the rules on the declaration of interests;
- to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience and involves due diligence in the performance of his/her duties as a director); and
- to comply with statutory obligations imposed by the Companies Acts, other legislation and any procedural rules set out in the governing document.

If you are appointed as a trustee of a charity then the duties of trustees are generally the same as for a director but in addition you must make sure the trust acts in accordance with the aims and objectives of the trust and you should make sure that you have a clear understanding of what these are (there is normally a trust deed which sets these out).

If you are appointed as a School Governor to an Academy School, you are likely to be both a company director and a charity trustee in which case the above advice will be relevant (see also para 1.6 and generally *The Department for Education's Governors' Handbook for Governors in Maintained Schools, Academies & Free Schools (January 2014)* for further details on your responsibilities).

It should be noted that there is no *requirement* for academies to have local authority appointed trustees (formerly governors). All trustees will be covered by an indemnity provided for by the academy's Articles of Association.

#### **5. General Duties of a Representative on an Outside Body**

In carrying out your duties as a trustee or director of an outside body you must take decisions without being influenced by the fact that you are a councillor. Your primary duty in making management decisions for the outside body is to make these decisions in the interests of the organisation. Councillors should always ensure that their fellow directors/trustees are aware of the fact that they are councillors.

In these cases, you must act in the interests of that body and exercise independent judgement in making decisions, in accordance with your duty of care to the body. You are not there just to vote in accordance with the Council's wishes. You may have regard to the interests of the Council, but this should not be the overriding consideration. In some cases voting in the Council's interests could be a breach of your director's duty to the company.

In other cases the Council may have expressed a view or formulated a policy and would expect you to convey that view or policy to the outside body. It is acceptable for you to do this as your Council's representative provided that it does not conflict with your particular duties as director or trustee or where it is clearly not contrary to the interests of the organisation.

The overriding responsibility is to seek to avoid a situation where duty and interest conflict and therefore if you are unsure about declaring an interest, it would be wise to declare and leave the meeting during consideration of the business (or whatever is required under the outside body's own code of conduct, if it has one – see section 7, below).

## **6. Managing Conflicts of Interest**

In general terms the purposes of the outside body and what it wants to do often coincide with the Council's interest and so conflicts may be rare. However, there may be difficulty in some circumstances: for example, if the body is not complying with the terms and conditions of a funding agreement with the Council; or the organisation wishes to appeal against a planning decision made by the Council; or where the organisation has wider objects than the reason behind the Council's appointment and wishes to pursue activities which would conflict with Council policy.

You will need to manage the conflicts that will arise appropriately and in certain circumstances may feel that your only option is to resign from the company or body. Similarly, if the Council does not feel that a representative on an outside body is properly fulfilling their role and responsibilities (e.g. the person is not attending meetings or is voting in ways which may be inappropriate) then the Council could choose to change its representation on the outside body. Clearly there is a greater scope for conflicts to arise where you hold an office in the outside body: e.g. Chair, Vice-Chair, Secretary or Treasurer, than if you are a general member.

## **7. Declarations of Interest and Duties of Confidentiality - the Members' Code of Conduct**

When outside bodies consider issues related to the Council or where you may have a personal interest in relation to the body's activities, these need to be declared in line with the rules of the outside body and the Members Code of Conduct : see *Gateshead Council's Constitution; Part 5; Councillors' Code of Conduct ('the Code')*. The specific rules adopted by each body will vary and therefore you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.

When the Council considers issues relating to or affecting the outside body to which you have been appointed as Council representative you must declare your personal interest in the matter in accordance with the Members' Code of Conduct : see esp. paras 16/17 Part 4 of the Code : 'Non-Participation in Council Business'.

These provisions do not apply if you hold a relevant dispensation or the matter relates to the discharge of certain Council functions: see para 19 of the Code.

You will also need to ensure details of your appointment are included on the Register of Interests kept by the Monitoring Officer: see paras 11/12; Part 2 of the Code: 'Registration of Interests'.

Confidential information must be treated with care and if you have any doubt over the status of any information then you should keep that confidential and check with the relevant officer, whether or not it is something which is already in the public domain or which may be disclosed.

The legal position is that someone who has received information in confidence is not allowed to take improper advantage of it. Deliberate leaking of confidential information will also be a breach of the Members Code of Conduct.

Where you act as a representative of the Council on an outside body, you must comply with the code of conduct of that body, if it has one. If it does not, you must comply with the Members' Code of Conduct unless observance of the Code would conflict with any other obligations (i.e. the duty to act in the best interests of a company).

Under the Code, you must not:

- disclose information given to you in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it, or unless you are required by law to do so (para9);
- prevent another person from gaining access to information to which that person is entitled by law (para 8).

Disclosing confidential information may also contravene other parts of the Code: e.g. it may be regarded as bringing the office of councillor or the Council into disrepute; may compromise the impartiality of people who work for the Council; may improperly confer or secure an advantage or disadvantage for you or any other person (see generally paras. 1- 10, Part 1: 'General Conduct').

## **8. Allowances, insurances and indemnities**

The Council may have authorised attendance at meetings of certain outside bodies as an approved duty for councillors, allowing travelling and/or subsistence allowances in connection with meetings of the body. Alternatively, any expenses may be defrayed by the body itself, in accordance with its own rules. If the body does pay expenses, you may not claim from the Council. For further information on allowances contact the relevant officer in the Council.

In some instances councillors who represent the Council on outside bodies may carry personal liability for decisions they make and actions which they take in their representative capacity. This is most likely to arise if you have been appointed as director of a company, or a trustee of a charity or onto the management board of an organisation. The outside body may have insurance to cover your liability in these cases and you should check with the organisation.

The Local Government Act 2000 allows the Secretary of State to make regulations giving local authorities powers to provide some protection for a Councillor or officer acting as the Council's nominated director where a claim is brought against them because of some negligent act, or failure to act, in the course of carrying out their duties as directors. These regulations are set out in the 2004 Indemnities Order which came into effect in November 2004.

Cabinet granted an indemnity under these arrangements on 18 October 2005 and reference should be made to the terms set out in that report.

However, cover can only be provided by the authority where the officer or Councillor has been specifically appointed by the authority to act as the Council's nominated director; nor can it extend to acts by the councillor or officer regarded as criminal: e.g. wrongful or fraudulent trading. It can be used to meet the costs of defending any criminal proceedings but if convicted; the costs of the defence must be reimbursed to the Council or Insurance Company.

Cover cannot be provided where there is intentional wrongdoing, fraud or recklessness. Nor can it be provided to fund an action for defamation brought by a councillor or officer against a third party (although it can extend to defending an action for defamation brought *against* a councillor or officer by a third party). The cover also extends to councillors or officers doing acts which are outside the powers of the authority (i.e. *ultra vires*) so long as they reasonably believed what they were doing at the time was within the powers of the authority.

If a Councillor is a member of a body in their personal capacity they should be alert to the potential for personal liability and seek assurances regarding the indemnity and insurance position of the body concerned.

**Contact Information:**

Mike Barker, Monitoring Officer:

Martin Harrison, Deputy Monitoring Officer:



## COUNCIL MEETING

21 April 2016

### GATESHEAD COUNCIL

### REPORT FROM THE CABINET

#### 1. PURPOSE OF THE REPORT

This is the report from the Cabinet. Its purpose is to report on issues for the period March – April 2016.

#### PROGRESS ON KEY ISSUES

#### 2. PEOPLE

##### *Children and Young People*

##### Gateshead Schools Dance Festival 2016

Almost 2,500 young people from schools across Gateshead, performed at Sage Gateshead on 15 and 16 March, for a two day celebration of dance themed around 'Musicals, Books and Fairy Tales' - this theme was selected by the schools and children themselves. In total, over 74 schools and two community groups participated in the festival, with nursery age children as young as three taking part, alongside more seasoned dancers from secondary schools across the Borough.

Each of the five sessions at this year's festival was opened and closed by professional singer, Channy Thompson, who kindly agreed to attend and support on a voluntary basis. Channy performed on stage with a young dancer from Kingsmeadow Community Comprehensive School. The two-day event also provided the perfect platform for an art based competition where all Gateshead pupils were invited to submit a design for the front cover of the festival programme. The eventual winner, a pupil from Dunston Hill Community Primary school, was announced during the Wednesday afternoon show and invited on to the stage to receive an award in recognition of their work. The event was compered by local radio presenter, Matt Bailey of Capital FM.

The annual dance festival is organised by Gateshead School Sport Partnership and this is the eighth time that the Gateshead Schools Dance Festival has been held at Sage Gateshead. The festival affords young people the opportunity to display their dance skills, as well as encouraging the pupils to develop their creativity and take part in a healthy activity.

##### Ofsted inspection of services for children in need of help and protection, children looked after and care leavers and review of the effectiveness of the local safeguarding children board

Ofsted has rated the Council's Children and Families Service as 'good', following their inspection at the end of last year. Good practice was seen in a range of areas, including: family support in relation to domestic abuse; fostering support; performance management; and promoting children's rights.

The Ofsted report states that: “Children’s services in Gateshead are good because leaders, managers and workers are highly effective” and that there is a “strong corporate commitment to safeguarding and improving outcomes for all children and young people in the borough”.

Of particular mention is the Council’s response to children at risk of sexual exploitation and those who go missing from home and care, which is described as a ‘particularly strong area’, as well as its highly effective multi-agency approach to safeguarding and managing risk.

The report noted that responses to child protection concerns are timely and robust and that social workers had manageable caseloads, were well supported by managers and that the workforce was stable. Social workers know the children they work with well and as a result, provide good support to meet children’s needs and promote their safety.

Adoption performance is also ‘good’, with good post adoption support; children being well matched with adopters and few delays or adoption breakdowns. Special mention was made of the service having a good record for placing older children and groups of siblings.

While most services were given a ‘good’ rating with examples of very good practices, the experience and progress of care leavers requires improvement. Reasons for this included: not enough care leavers continuing education, work or training beyond the age of 19 and the Council needing to be more ambitious and persistent for this group. Future plans for this group of young people need to be more focussed on positive outcomes.

However, the report acknowledges that all care leavers are offered safe, secure and suitable accommodation and that the arrangements for keeping in touch with and supporting care leavers were effective, with young care leavers valuing the support they receive.

The Ofsted report into Children’s Services also recognises the part played right across the Council by both staff, and councillors, noting that “Elected members take corporate parenting very seriously” and that there is a “strong ethos of collective responsibility across the Council” helping to achieve the best outcomes for children.

The Local Safeguarding Children Board (LSCB) was inspected at the same time and requires improvement to be ‘good’, due to issues such as gaps in its membership, monitoring of services and lack of robustness in the analysis of its training. But the LSCB had already identified areas for improvement, which it shared with Ofsted and has put plans into action to tackle these issues.

Ofsted acknowledged that the LSCB has clear strong commitment from key statutory agencies and that good collaborative working had resulted in an effective approach to safeguarding, child sexual exploitation and prevention of extremism.

#### Apprenticeship Growth

The Council’s learningSkills service has developed nationally into the fifth largest local authority provider of apprenticeships. Over the last five years, apprenticeships delivery has increased from 104 to 694 student/employees (a larger cohort than many colleges). The Government, through their three million apprenticeship target, and

locally the NE LEP, have prioritised apprenticeship growth as a key skills policy, particularly with young people aged 16-18. While nationally there has been little growth (less than 3% in the last 5 years), the Council has expanded its delivery six fold to 272 apprentices aged 16-18.

This achievement has been accomplished by the Council working with over 150 employers and creating a vocational route for young people who may have previously not achieved successfully in education. The growth in delivery has been matched by a growth in quality, with the percentage of successful apprenticeships increasing by 7.6% from 68% in 2010 to 76% in 2015, while quality nationally has decreased from 72% to 69%.

#### Ofsted Inspection of Adult Learning

The Council's learning Skills service has maintained its 'good' rating following its first short inspection by Ofsted since October 2010.

The inspection found that the effectiveness of leadership and management is good and noted that the service had maintained a relentless focus on addressing the needs of the hardest-to-reach members of local communities during a period of prolonged economic hardship. The numbers of economically inactive learners now make up 70% of all learners compared with 45% at the time of the last inspection. There are now clear routes from non-accredited community learning, through employability programmes, traineeships and study programmes, to apprenticeships. Learner's progression is outstanding.

It was recognised that the service is now one of the largest local authority apprenticeship providers in the country and is becoming a significant provider of skills based training in the area.

It was noted that the community learning programme has been successfully adapted by managers to make it more focused on developing skills for employment or on providing learners with the knowledge and confidence to take up volunteering roles in the community. Community learning is increasingly being used successfully for the most vulnerable unemployed young people and adults as a stepping stone to formal employability provision.

The inspectors recognised there had been successful implementation of a range of new programmes since the last inspection, with an offer for all age groups, and at different levels, in a diverse range of employment sectors, ranging from health and social care to retail. They commented that, across all programmes, learners develop good English and mathematics skills, with the great majority achieving qualifications in these subjects at higher levels than when they first entered the provision.

It was also noted that safeguarding arrangements are fit for purpose and appropriate actions are taken to safeguard learners.

However, there were a number of areas identified where improvements could be made, including increasing the success rates further in study programmes for 16-18 learners by improving the effectiveness of monitoring and short term target setting to support achievement within planned timescales. They also felt that by providing regular reports on the performance and quality of provision to elected members, there would be more effective scrutiny and challenge of the service.

The learningSkills service enrolls over 11,000 people on learning programmes. Since its last Ofsted inspection in 2010, the Council has doubled the volume of learning delivered from £2.1m to £4.2m in a sector that reduced by 23% nationally.

### ***Adult Social Care***

#### Gateshead Older People's Assembly Cosy Crow Café

During 2014/15, Gateshead was one of five areas in the UK selected to pilot the national Malnutrition Prevention Programme. According to the research from the project, it was estimated that over 5,000 older people in Gateshead were affected by or at risk of malnutrition.

In response to the findings, Gateshead Older People's Assembly has launched the Cosy Crow Community Café which operates from Deckham Community Centre. As well as providing hot meals, snacks and refreshments, the café will also be a social meeting place for older people across Gateshead, helping to alleviate loneliness and social isolation.

## **3. PLACE AND ECONOMY**

### ***Environment and Transport***

#### Future of Metro Services

On 24 March, Nexus was given endorsement by the North East Combined Authority to manage Metro operations directly for two years from April 2017, rather than taking up an option to extend the contract with the current operator, DB Regio Tyne & Wear Ltd (DBTW).

A statement from Nexus said that "both Nexus and DBTW are dissatisfied with the structure of the contract. Its financial and operational performance and its outcomes for passengers are not where either of us would want them to be."

This move is one part of a four-point plan for the future of Metro comprising funding for new trains, arrangements for a new operating contract, continued capital investment and potential extensions.

#### Fixed Penalty Notices for Street Works

The Council has a key role in the co-ordination of street works within Gateshead, helping to minimise disturbance and delay to the public from utility works, and ensuring that proper reinstatement is carried out once any work is completed.

To date, the Council has sought to encourage greater compliance with statutory requirements through negotiation, avoiding the issuing of Fixed Penalty Notices for any contraventions. However, while there have been improvements in performance, problems in certain areas remain stubbornly high.

In the light of this, utility companies have now been informed that the Council intends to start issuing Fixed Penalty Notices for non-compliance with the regulations.



#### **4. COMMUNITIES**

##### ***Culture, Sport and Leisure***

##### Relocation of Chopwell Library

Chopwell Library relocated to premises previously occupied by Chopwell Children's Centre on Monday 11 April. The accommodation located within Chopwell Primary School has been opened up to provide an integrated space for both the Library and the Children's Centre activities. The Library will be open to the public but will also be very accessible for school use.

#### **5. CONCLUSION**

The Council is asked to note this report.

This page is intentionally left blank



**COUNCIL MEETING**

**21 April 2016**

## **GATESHEAD METROPOLITAN BOROUGH COUNCIL**

---

### **NOTICE OF MOTION**

Councillor A Douglas will move the following motion:

“Gateshead Council notes that the Government’s White Paper, entitled Educational Excellence Everywhere, is a complete distraction from the very real problems facing schools and parents; that it poses a real danger to our education system and opens the door to privatisation.

We further note that Government plans to force all schools to become academies by 2022, at great and unnecessary expense to the tax payer of around £1.3 billion whilst schools face cuts in funding, has been greeted with disbelief and dismay by parents, teachers and politicians. Over 80% of local authority schools are rated good or outstanding by Ofsted, which begs the question, why force them to change? Evidence suggests the academy programme is not working. Sir Michael Wilshaw, the head of Ofsted, said that many academy chains were performing badly and letting down disadvantaged children. A report of the Education Committee highlights that there is no evidence that academisation in itself leads to school improvement.

Gateshead Council believes that every child deserves an excellent education and acknowledges that across the UK schools and parents are facing a chronic teacher recruitment and retention crisis, a lack of school places, chaos in curriculum change and primary tests, and a funding crisis. Instead of dealing with these very real issues, the Government is pursuing a top-down reorganisation of education that has no basis in evidence and no mandate, as these proposals were not part of their 2015 election manifesto. We also believe that breaking up national pay and conditions will be a further distraction for schools.

Gateshead Council opposes the Government’s proposals to force all schools to become academies. We will seek to encourage campaigning against the White Paper and we call on the Government to put their plans on hold as there is insufficient evidence that they will raise standards.

Gateshead Council also calls on the Strategic Director, Care, Wellbeing and Learning and the Service Director, Learning and Schools to continue to work with schools, governors, trade unions and parents to maintain cooperation, partnership and support school improvement across schools in Gateshead.”

Proposed by: Councillor A Douglas

Seconded by: Councillor C McHugh

Supported by: Councillor M Henry  
Councillor G Haley

This page is intentionally left blank