

GATESHEAD COUNCIL

CONSTITUTION OF THE COUNCIL

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PART 1

SUMMARY AND EXPLANATION

SUMMARY AND EXPLANATION

The Council's Constitution

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

The constitution is divided into 17 articles which set out the basic Rules governing the Council's business. More detailed procedures and codes of practice are provided under separate Rules and protocols at the end of the document.

The constitution is not a definitive statement of law. However, the final section sets out the various legal powers and duties that apply to the different parts of the constitution. If anything in the constitution is inconsistent with something in the law, then the law has priority.

How the constitution is arranged

Article 1 of the constitution commits the Council to:

- Local democratic self government
- Improvement, quality and equality in the delivery of services
- Working in partnership with its citizens
- Taking a lead in working with other agencies – public, private and voluntary – to improve the social, economic and environmental well-being of Gateshead and its citizens

Articles 2-16 explain the rights of citizens and how key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council Meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny of Decisions (Article 6)
- The Cabinet (Article 7)
- Other Committees (Article 8)
- The Audit and Standards Committee (Article 9)
- Neighbourhood Management (Article 10)
- Health and Wellbeing Board (Article 11)
- Joint Arrangements (Article 12)
- Employees of the Council (Article 13)
- Decision Making (Article 14)
- Finance, Contracts and Legal Matters (Article 15)
- Review and Revision of the Constitution (Article 16)
- Suspension, Interpretation and Publication of the Constitution (Article 17)

How the Council operates

The Council is composed of 66 councillors. Each councillor serves a four year term, with elections for one third of council seats taking place in three years out of four.

Councillors are democratically accountable to residents of their wards. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Audit and Standards Committee provides training and advice to them on the code of conduct.

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

The Council meeting is the public face of the authority – the forum where key issues facing the Borough are debated in the public spotlight. The Council will also hold the Leader and members of the Cabinet to account for their actions, and receive reports from Overview and Scrutiny Committees.

How decisions are made

The full Council appoints a Leader who in turn appoints a Cabinet, consisting of himself and nine other councillors, one of whom the Leader will appoint as Deputy Leader. The Cabinet is responsible for taking day to day decisions about Council services, provided the decision is in line with the Council's overall budget and policies. If the Cabinet wishes to make a decision which is outside of the budget and policy framework, this must be referred to the whole Council to decide.

When major decisions are to be discussed or made, these are published in the Cabinet's schedule of decisions, so far as they can be anticipated. The schedule of decisions is widely available so that the public can see what matters are coming up for decision and express their views to Cabinet members.

When the Cabinet meets to take decisions, or to discuss major decisions which are to be made in the near future, the meeting will be open for the public to attend except where personal or confidential matters are being discussed.

The Cabinet also has an important role in seeing that the Council's existing policies are delivered and in developing proposals for changes to policy or new policies.

Decisions about permissions, licensing and appeals are not the responsibility of the Cabinet. There are a number of 'regulatory' committees that deal with these – for example – the Planning and Development Committee decides whether or not to approve applications for planning permission. People who support or oppose a particular application are usually allowed to express their views at the meeting of the appropriate Committee, within Rules laid down by the Council.

There are a few decisions which can only be taken by the whole Council, such as decisions about making by-laws or about the allowances that councillors receive.

Some decisions are delegated to Council employees. For example, senior managers can appoint staff, or accept tenders for contracts up to a certain level, provided they follow the Rules laid down by the Council.

Overview and Scrutiny

There are four Overview and Scrutiny committees who support the work of the Cabinet and the Council as a whole. They make recommendations and reports to the Cabinet and the Council on its policies, budget and service delivery. They may comment on forthcoming decisions on policies and budgets which are in the course of development.

Overview and Scrutiny committees also monitor the decisions of the Cabinet. They can 'call in' a decision which has been made by the Cabinet but not yet implemented and, if they think it appropriate, may ask the Cabinet to think again. They can also hold reviews and inquiries into matters of local concern, involving other agencies in Gateshead as well as the Council.

The Council's Employees

The Council has people working for it, often called 'officers', to give advice, implement decisions and manage and deliver services to the public. Some officers have a legal responsibility to ensure that the Council and its officers act within the law and use Council resources wisely. A code of practice governs the relationships between officers and members of the Council.

Citizen's Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

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

Citizens have a right to:

- Vote at elections if they are registered
- Contact their local councillors about any matters of concern to them
- Obtain a copy of the constitution
- Attend meetings of the Council, council committees and decision-making meetings of the Cabinet where personal or confidential matters are not being discussed
- Petition to request a referendum on a mayoral form of executive
- Participate in the Council's question time and present petitions to the Council meeting

- Find out, from the Cabinet's schedule of decisions, what major decisions are to be discussed by the Cabinet or officers, and when
- See reports and background papers, and records of decisions made by the Council, its committees and the Cabinet, subject to Rules on disclosure of personal and confidential information
- Access recorded information held by the Council under the terms of the Freedom of Information Act 2000
- Take the matter up through the Council's complaints procedure if they are dissatisfied with the standard of service provided by the Council or with the actions (or lack of action) of the Council or its employees
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints procedure
- Complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct
- Inspect the Council's accounts, ask the Council's external auditor questions about the accounts and make objections to the accounts in accordance with the law

You can request information about the rights of citizens to inspect agendas, reports and attend meetings of the Council and its bodies by telephone on 0191 433 2128 or by email at enquiries@gateshead.gov.uk.

Equal Opportunities

The Council is a major service provider and employer and has a moral and legal responsibility to promote equality of opportunity.

Each individual within Gateshead's diverse population is entitled to be treated fairly and with dignity and respect.

The Council will ensure that service users, employees and job applicants are not discriminated against on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender, sexual orientation, and marriage and civil partnership.

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This constitution, and all its appendices, is the constitution of Gateshead Council and includes its standing orders.

1.03 Purpose of the Constitution

The constitution provides the framework and democratic processes needed to realise the Council's vision and deliver Making Gateshead a Place Where Everyone Thrives. Our vision for Gateshead is a place where all local people can realise their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead.

The constitution will support the realisation of this vision through:

- enabling the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- supporting the active involvement of citizens in the process of local authority decision-making
- helping councillors to represent their constituents more effectively
- creating powerful, effective and impartial means of holding decision-makers to public account
- ensuring that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions
- providing a means of improving the delivery of services to the community

1.04 Interpretation and Review of the Constitution

Where the constitution permits the Council to choose between different courses of action, the Council will choose that option which it thinks is closest to the purposes stated above unless exceptional circumstances require otherwise.

The Council will monitor and evaluate the operation of the constitution as set out in Article 16.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

(a) Composition

The Council will comprise 66 members, otherwise called councillors. Three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Boundary Commission for England and approved by the Secretary of State.

(b) Eligibility

In general terms only registered voters of Gateshead borough or those living or working there will be able to hold the office of councillor. Some people, such as employees of Gateshead Council, are disqualified from being members of the Council. Rules about disqualification are laid down in the Local Government Act 1972.

2.02 Election and terms of councillors

The ordinary election of a third of all councillors will be held on the first Thursday in May each year, except that every fourth year, commencing in 2013, there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

If a councillor's office becomes vacant, for example, because the councillor resigns or dies, a by-election will normally be held in accordance with the Rules laid down in the Local Government Act 1972.

(a) Key Roles

All councillors will:

- (i) uphold and promote the purposes of the constitution
- (ii) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions
- (iii) represent their communities and bring their views into the Council's decision-making processes, ie become the advocate of and for their communities
- (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances fairly and impartially
- (v) effectively represent the interests of their ward as a whole and of individual constituents
- (vi) respond to constituents' enquiries and representations
- (vii) participate in the governance and management of the Council and be involved in decision-making
- (viii) ensure that the Council meeting is a forum for the debate of matters of concern to the local community
- (ix) promote public involvement in the Council's activities

- (x) be available to represent the Council on other bodies
- (xi) maintain the highest standard of conduct and ethics and observe the authority's code of conduct

(b) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or employee entitled to know it
- (iii) For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this constitution

2.03 Conduct

Councillors will at all times observe the councillors' code of conduct and the protocol on councillor/officer relations set out in part 5 of this constitution.

2.04 Allowances

Councillors will be entitled to receive allowances in accordance with the councillors' Allowances Scheme set out in part 6 of this constitution.

ARTICLE 3 – CITIZENS AND THE CONSTITUTION

3.01 Citizen's Rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Rules in part 4 of this constitution:

(a) **Voting and Petitions**

Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for a mayoral form of executive

(b) **Information**

Citizens have the right to:

- (i) Attend meetings of the Council and its committee, and decision-making meetings of the Cabinet, except where confidential or exempt information is likely to be disclosed
- (ii) Find out from the schedule of decisions what key decisions are taken by the Cabinet or officers and when, and what decisions are to be made in private
- (iii) See reports and background papers, records of decisions made by the Council, its committees and the Cabinet subject to Rules on disclosure of confidential or exempt information
- (iv) Inspect the Council's accounts and make their views known to the external auditor

Since 1 January 2005, citizens have had a general right of access, under the Freedom of Information Act 2000, to recorded information held by the Council, subject to the conditions and exemptions set out in the Act.

(c) **Participation**

Citizens have the right to participate in the Council's question time and present petitions to the Council meeting; and to express views at meetings of the Planning and Development, Licensing, Regulatory and Rights of Way Committees, subject to Rules laid down by the Council.

(d) **Complaints**

Citizens have the right to complain to:

- (i) The Council itself under its complaints procedure
- (ii) The Ombudsman after using the Council's own complaints procedure
- (iii) The Monitoring Officer about a breach of the Councillors' Code of Conduct

3.02 Citizen's Responsibilities

Citizens must not be violent, abusive or threatening to councillors or employees and must not wilfully harm things owned by the council, councillors or employees.

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

(a) **Policy Framework**

The policy framework means the following plans and strategies, some of which the Council is required to produce, along with those that have been adopted by the Council as part of the Policy Framework:

- Making Gateshead a Place Where Everyone Thrives
- Early Help Strategy
- Youth Justice Plan
- Crime and Disorder Reduction Strategy (Gateshead Community Safety Board Partnership Plan)
- Local Transport Plan
- Local Development Plan and associated documents
- Housing Strategy and associated plans
- Joint Health and Wellbeing Strategy and associated documents
- Joint Strategic Needs Assessment
- Joint Municipal Waste Strategy
- Medium Term Financial Strategy
- Budget Plan and Capital Programme
- Equal Opportunities Policy
- Environmental Policy
- Supporting policies including
 - Policy Statement of Principles on Gambling
 - Statement of Licensing Policy

together with such other plans, strategies and policies that the Council determines should be adopted or approved by them.

(b) **Budget**

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

(c) **Housing Land Transfer**

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

4.02 Functions of the full Council

Only full Council will exercise the following functions:

- (a) adopting and changing the constitution
- (b) approving, adopting or amending the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer subject to the urgency procedure contained in the Budget and Policy Framework Rules in part 4 of this constitution, making decisions about any matter in the discharge of an executive function where the decision would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget
- (d) appointing the Leader
- (e) agreeing and/or amending the terms of reference for committees of the Council, deciding on their composition and making appointments to them
- (f) appointing representatives to outside bodies unless the appointment is in respect of an executive function or has been delegated by the Council
- (g) adopting an allowances scheme under Article 2.04 or amending, revoking or replacing such a scheme
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the borough
- (i) appointing the head of paid service on the recommendation of the Special Appointments Committee
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (k) determining, or delegating to a committee or an officer, all local choice functions set out in part 3 of this constitution which the Council decides should be undertaken by itself rather than the Cabinet
- (l) all other matters which by law, must be reserved to the Council

4.03 Council Meetings

There are three types of Council meetings:

- (a) the annual meeting
- (b) ordinary meetings
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in part 4 of this constitution

4.04 Responsibility for functions

The Council will maintain the tables in part 3 of this constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

4.05 Involvement by the public

The Council will consider from time to time the means by which public involvement in its meetings can be developed.

ARTICLE 5 – CHAIRING THE COUNCIL

5.01 Election of Mayor

At its annual meeting the Council will elect from among its councillors a chair and deputy chair, who will have the titles of mayor and deputy mayor respectively. By law, the mayor and deputy mayor may not then be nominated to the Cabinet.

5.02 Ceremonial Role

The mayor will be the first citizen of the Borough of Gateshead and will take precedence in the Borough. He/she will attend appropriate civic and ceremonial functions.

5.03 Chairing the Council Meeting

In his/her capacity as chair of the Council, the mayor will preside over meetings of the Council and interpret the Council Procedure Rules, so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.

The Deputy Mayor will exercise these responsibilities in the mayor's absence.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.01 Terms of Reference

The Council will appoint the Overview and Scrutiny Committees set out below, and will discharge the functions conferred by Part 1A of the Local Government Act 2000 (as amended). The memberships and terms of reference of these committees are set out in the Overview and Scrutiny Rules set out in part 4 of this constitution.

Committee	Scope
Families	Education Social services for children and young people Health services for children and young people Children in the Council's care
Care, Health and Wellbeing	Health services for adults and Overview of health services for children and young people Social services (except those for children and young people) Overview of functions discharged under the Health and Social Care Act 2012 or any other enactment in relation to the planning provision and operation of the health service in the area.
Housing, Environment and Healthy Communities	Economic development Lifelong learning Culture, including leisure Community safety Housing including buildings and service compliance and performance monitoring Homelessness, locality management and housing development Physical development and regeneration Transport planning and public transport Local environment Protection of the environment
Corporate Resources	Management of resources Supporting democracy and involving local people Social inclusion Equalities and diversity Efficiency, VFM and procurement

6.02 Aims and objectives of the Scrutiny function

- (i) The following principles will govern the Overview and Scrutiny function in the Council:
- It will be an integral part of the Council's framework, working within it not outside or against it
 - It will be a constructive process which is open and accountable
 - It will work alongside the other parts of the Council's structure in making a contribution to policy
 - It will enhance rather than duplicate activity
 - It will look outwards to broader issues affecting local people rather than just internal Council issues
- (ii) Within these principles, the Overview and Scrutiny committees will:
- Review decisions, holding decision makers to account
 - Call in executive decisions in accordance with the procedure set out in the Overview and Scrutiny Rules
 - Contribute to the policy-making process through:
 - Policy reviews agreed as part of the service planning cycle
 - Advice given to the Cabinet as part of the Council's performance management framework
 - Examining issues in the Council's schedule of decisions
 - Ensure other agencies, public and private, play their part in accordance with the Council's protocol set out in Annex A to the Overview and Scrutiny Rules
- (iii) In exercising their statutory powers, Overview and Scrutiny committees will bear these objectives in mind.

6.03 Relations with the Council and the Cabinet

Overview and Scrutiny committees will:

- (i) make recommendations to the Cabinet/and or Council arising from the outcome of the Scrutiny process
- (ii) maintain liaison with the Cabinet; in particular the Leader will from time to time meet with the chairs and vice-chairs of Overview and Scrutiny committees to discuss issues of mutual concern
- (iii) report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate

6.04 Proceedings of Overview and Scrutiny Committees

Overview and Scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Rules set out in part 4 of the constitution.

ARTICLE 7 – THE CABINET

7.01 Role

The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution. The Cabinet's main functions will be:

- To lead change and make recommendations for change to the Council, in consultation with a range of stakeholders
- To ensure that the Council's priorities within the policy framework and budget are implemented, making decisions within the framework where appropriate
- To monitor and implement the budget and policy framework through taking a lead role on Best Value and through co-ordination with the Overview and Scrutiny role
- To provide a public face for specific issues

7.02 Form and composition

The Cabinet will take the form of a leader and cabinet executive as defined in Part 1A of the Local Government Act 2000 (as amended). It will consist of the Leader together with nine councillors appointed to the Cabinet by the Leader including the Deputy Leader.

Only councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the mayor nor deputy mayor may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of an Overview and Scrutiny committee.

7.03 Proceedings of the Cabinet

Proceedings of the Cabinet will take place in accordance with the Cabinet Procedure Rules set out in part 4 of this constitution.

All matters which are the responsibility of the Cabinet, and not delegated to managers, will be determined by the Cabinet collectively.

7.04 Leader

The Leader will be a councillor elected by the Council to the position of Leader of the Council. He/she will be recognised as the person who speaks for the Council on policy issues. The Leader will hold office until:

- He/she resigns from office; or
- He/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- He/she is no longer a councillor; or

- The day of the first annual meeting of the Council, after the Leader's normal day of retirement as a councillor, unless the Leader is removed from office earlier in accordance with Rule 13 of the Council Procedure Rules.

7.05 Cabinet Portfolios

The Leader may allocate portfolios to individual members of the Cabinet and will report such allocations to the next practicable meeting of the Council. The Leader will also designate a member of the Cabinet as lead member for Children's Services under section 19 (1) of the Children Act 2004. Within their portfolio areas the Cabinet will:

- Lead change through review and development of services
- Publicly present issues and policies as they develop
- Represent the Council at appropriate external meetings or partnerships
- Represent the Council at national and regional organisations
- Lead consultation exercises

7.06 Cabinet Members

Cabinet Members will hold office until:

- They resign from office; or
- They are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- They are no longer councillors; or
- They are removed from cabinet office by the Leader.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

- 8.01** The Council will appoint the committees set out in Annex 1A 'Responsibility for Non-Executive Functions' which can be found in Part 3 of this constitution. These committees will discharge the functions assigned to them in Schedule 1 to Annex A.

ARTICLE 9 –STANDARDS

9.01 Audit and Standards Committee

The Council will establish and maintain an Audit and Standards Committee

9.02 Composition

(a) Membership

The Audit and Standards Committee will consist of ten members as follows:

- Seven councillors, of whom no more than two may be members of the Cabinet (and may not be the Leader)
- Three persons who are not councillors or officers of the Council (independent members)
- One member of Lamesley Parish Council nominated by that Council (parish member) who will be invited to attend for standards issues only

The Council will appoint members of the Audit and Standards Committee at its annual meeting and will appoint one of the councillors to be chair of the committee.

(b) Voting Rights

The independent and parish members will not be entitled to vote at meetings

(c) Quorum

The quorum of the Audit and Standards Committee will be three members.

(d) Parish Members

The parish member must be present at any meeting of the Standards Committee when matters relating to Lamesley Parish Council or its members are being considered.

9.03 Role and Function

The Audit and Standards Committee will have the following roles and functions in respect of standards:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Council's adopted Code of Conduct (the "Code of Conduct");
- (c) advising the Council on the adoption or revision of the Code of Conduct;
- (d) monitoring the Code of Conduct;

- (e) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Code of Conduct;
- (f) granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Code of Conduct;
- (g) dealing with any reports including investigations from the Monitoring Officer; and
- (h) the exercise of (a) to (g) above in relation to Lamesley Parish Council and its members.

The Audit and Standards Committee will have the specific delegations set out in Part 3 Schedule 1.

9.04 Support for the Audit and Standards Committee

- (a) The Monitoring Officer will arrange meetings of the Audit and Standards Committee in consultation with the Chair, and will arrange for the provision of all necessary professional and administrative support.
- (b) Without prejudice to the role of the Audit and Standards Committee and the Monitoring Officer, the Leader of the Council and the Chief Executive will personally promote and maintain high standards of conduct among councillors, co-opted members and officers, and will liaise with the Audit and Standards Committee, from time to time, on how this is to be achieved.

ARTICLE 10 – NEIGHBOURHOOD MANAGEMENT

10.01 Objectives

The Council's objectives are:

- To secure continuous improvement in its services to local people
- To make its services more responsive to local people
- To give local people the opportunity to engage with the Council and identify their needs and priorities

10.02 These objectives will be delivered through the following principles:

- **Strong, visible and accountable leadership**
The Council will maintain a strategic overview of developing and implementing policy and securing the provision of key services across the Borough, but decision-making will be informed by the views of local people.
- **Engaging communities and empowering people**
The Council will offer local people in every neighbourhood the opportunity to influence how their neighbourhood is run, in a way that is capable of making a real difference to people's lives.
- **Efficient, joined up quality services**
The Council will recognise that different approaches will need to be adopted towards different services to ensure that it meets the needs of each neighbourhood. Close working between the Council and its partners will be an integral part of these arrangements.

10.03 Ward Councillors

Ward councillors will be recognised as champions for their local community, within a framework of corporate responsibility. A protocol setting out the role of the ward councillor as community champion appears in part 5 of this constitution. The Council will provide ward councillors with appropriate support and training to carry out this role.

10.04 The Cabinet

The Cabinet will support neighbourhood engagement and allocate some of its councillors specific responsibility for neighbourhood engagement.

10.05 Gateshead Strategic Partnership

The Council will lead the work of the Gateshead Strategic Partnership (GSP) to encourage different parts of the public sector, as well as the business community, the voluntary and community sectors, and government agencies, to take a strategic overview and co-ordinate their activities to improve outcomes for local people.

Membership of the GSP is open to any agency and organisation across the public, business or voluntary sectors, which work to benefit the lives of local people.

10.06 ARTICLE 11 – HEALTH AND WELLBEING BOARD

11.01 Gateshead Health and Wellbeing Board

The Council will establish and maintain a Health and Wellbeing Board.

11.02 Composition and Procedure

a) Membership

The Health and Wellbeing Board will consist of 20 members as follows:-

- Eight councillors (including the Chair and Vice Chair)
- Strategic Director, Children, Adults and Families
- Director of Public Health
- Two Gateshead clinical commissioning group representatives (the Chair or Assistant Chair of the Clinical Commissioning Group and one representative at Director level or equivalent)
- A representative of the NHS England
- A representative of the Local Healthwatch
- A representative of Gateshead Voluntary and Community Sector
- A representative of Gateshead NHS Foundation Trust
- A representative of South Tyneside NHS Foundation Trust
- A representative of Northumberland, Tyne and Wear NHS Foundation Trust
- A representative of Gateshead of Gateshead Federation of GP Practices
- A representative of Tyne and Wear Fire and Rescue Service

- Plus an Associate Member of the Board - Chair of the Local Safeguarding Children Board and Adult Safeguarding Board.

The councillors are nominated by the Leader of the Council who can also nominate himself.

The Council may appoint such other persons or representatives as it thinks appropriate having consulted the Health and Wellbeing Board.

The Health and Wellbeing Board may itself appoint such additional persons to be members of the Health and Wellbeing Board as it thinks appropriate.

b) Voting Rights

Each member of the Health and Wellbeing Board shall be entitled to vote at meetings.

The political balance rules do not apply to the Health and Wellbeing Board

c) Quorum

The quorum for a meeting of the Health and Wellbeing Board shall be one third of its members.

d) Frequency of Meetings

The Board shall meet on a six weekly basis or at such other times as the Health and Wellbeing Board shall determine throughout.

e) Sub-committees of the Health and Wellbeing Board

The Health and Wellbeing Board may discharge certain of its functions by a sub-committee of the Health and Wellbeing Board.

The Health and Wellbeing Board may discharge its functions under section 196(2) of the Health and Social Care Act 2012 (a local authority may arrange for a Health and Wellbeing Board established by it to exercise any functions that are exercisable by the authority) by a sub-committee of the Board or an officer of the Council; a sub-committee of the Health and Wellbeing Board may also discharge those functions by an officer of the Council.

The Health and Wellbeing Board may appoint one or more sub-committees of the Health and Wellbeing Board to advise the Health and Wellbeing Board with regard to any matter relating to the discharge of its functions.

11.03 Role and Function

The Health and Wellbeing Board will have the following roles and functions:-

- a) to lead on the production of the Joint Strategic Needs Assessment and Pharmaceutical Needs Assessment;
- b) to lead on the production of a Joint Health and Wellbeing Strategy;
- c) for the purpose of advancing the health and wellbeing of children and adults in Gateshead, encourage integration in the provision of health, education and social care in its area;
- d) provide such advice, assistance or other support as the Health and Wellbeing Board considers appropriate for the purpose of encouraging the making of arrangements under Section 75 of the National Health Service Act 2006 and the Children and Social Work Act 2017 in the provision of health and social care services;
- e) to encourage persons who arrange for the provision of any health-related services in its area to work closely with the Health and Wellbeing Board;
- f) to encourage persons who arrange for the provision of health, education and social care services in its area and persons who arrange for the provision of any health-related services in its area to work closely together;
- g) provide an opinion to the Council on whether the Council is complying with its duty to have regard to the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy;

- h) to exercise any other function that the Council requires the Health and Wellbeing Board to undertake on behalf of the Council; and
- i) to ensure the delivery of better health and wellbeing outcomes for children and adults, and improve the quality of education and care as well as to ensure value for money.

ARTICLE 12– JOINT ARRANGEMENTS

12.01 Arrangements to promote well being

The Council in respect of non-executive functions, or the Cabinet, in respect of executive functions, in order to promote the economic, social or environmental well-being of the authority's area may:

- (a) enter into arrangements or agreements with any person or body
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body
- (c) exercise on behalf of that person or body any functions of that person or body

12.02 Joint Arrangements

Non-executive functions

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

Executive Functions

- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Details of joint arrangements including delegations to joint committees will be found in the Council's scheme of delegations in part 3 of this constitution.

12.03 Appointments to Joint Committees

- (a) Appointments to joint committees will be made by:
 - **The Council**, where all the functions of the joint committee are the responsibility of the Council
 - **The Council with the agreement of the Cabinet**, where some of the functions of the joint committee are the responsibility of the council and some are the responsibility of the Cabinet
 - **The Cabinet**, where all of the functions of the joint committee are the responsibility of the Cabinet
- (b) Where the Council makes the appointment, then:

- If the authority has only one seat on the joint committee, the person appointed need not be a Cabinet member
 - If the authority has more than one seat on the joint committee, at least one Cabinet member must be appointed
- (c) Where the Cabinet makes the appointment, then
- If the joint committee is discharging a function in relation to one or more local authority or which is required by statute to be discharged by a joint committee, non-Cabinet members as well as Cabinet members may be appointed
 - In other circumstances, Cabinet members may be appointed
 - The political balance restrictions do not apply

12.04 Access to Information

- (a) The Access to Information Rules in part 4 of this constitution apply
- (b) If all the members of a joint committee are of the executive of the participating authorities then its access to information regime is the same as that applied to the executive
- (c) If the joint committee contains members who are not on the executive of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 will apply

12.05 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances
- (c) The decision whether or not to accept such a delegation from another local authority is reserved to the Council meeting

12.06 Contracting Out

The Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making. For functions which are not executive functions, the Council may contract out in the same way.

12.07 Budget and Policy Framework

Any action taken by the Cabinet under this Article must either fall within the budget and policy framework, or it must be the subject of a recommendation to the Council to amend the budget and/or policy framework.

ARTICLE 13 – EMPLOYEES OF THE COUNCIL

13.01 Management Structure

(a) General

The full Council may engage such employees as it considers necessary to carry out its functions. The recruitment, selection and dismissal of employees (including the Chief Executive and those employees who are designated as chief officers) will comply with the Employee Recruitment Rules set out in part 4 of this constitution.

(b) Chief Executive

The full council will engage a person to be the Chief Executive. He/she will be the head of the Council's employee structure and will have authority over every employee. He/she will be responsible for advice to the Council and Cabinet on strategy, policy, management and organisation.

(c) Strategic Directors

The full Council will engage persons to fill the following designated strategic director posts which at present have the following areas of responsibility:

Post	Functions and areas of responsibility
Strategic Director, Corporate Services and Governance	Corporate Governance including the Constitution and ethical framework Democratic Services including councillor support Scrutiny including the statutory Scrutiny Officer Complaints including Local Government Ombudsman liaison Legal advice and support (commercial and development, social services, housing, employment, education, regulatory services, debt recovery, equalities) Land Charges PrintPoint Prosecutions Court and Tribunal representation Information governance including the role of

Senior Information Risk Owner

Elections

Registrars

Commissioning framework and cycle,
commissioning and procurement support,
corporate projects co-ordination and support
and NEPO liaison

HR Strategy and management advice
including Health and Safety and
Occupational Health

Corporate and personal learning and
development

Strategic Director,
Resources and Digital

Financial management and planning

Treasury management

Accountancy

Internal Audit

Risk management and insurance

Council Tax, business rates and revenues

Benefits and financial assessments

Payroll, pensions and HR transactional
services

Creditor payments, debtors and cashiers

Customer services

IT strategy and service development

Application development and support

Infrastructure, systems support and data
centre management

Network support and development

IT security
IT service desk and desktop support
Capital Programme
Customer Experience
Corporate Customer Strategy
Digital Services and Online Framework
Corporate Performance Management and Improvement Framework
Equalities and Diversity
Major Strategic Events
Services for Schools
Commercialisation including Gateshead Trading Company

Strategic Director,
Children, Adults and
Families

Commissioning, contract management and review of social care services
Safeguarding Adults Board
Performance management
Care First management
Social Care Complaints
Assessment, care planning and management
Care provider services
Rehabilitation services including occupational therapy assessment and adaptations
Telecare and telehealth services
Support to vulnerable people
Early Years and childcare

Play development

Connexions

Youth Offending Team

Targeted youth services

Support to families' services including
FamiliesGateshead

Strategic planning of children's services

Children's Trust Board

Local Safeguarding Children Board

LADO and IRO services

Common assessment framework

Post-16 education

SEN and Disabilities Team
Home to school/college transport

Schools organisation and admission

School improvement advice and inspection
services

Support services to schools e.g. Behaviour
support, Schools Music Service, Sports'
Partnership, governor support

Adult learning

Educational psychology services

Referral and assessment

Looked after children and corporate
parenting

Safeguarding, care planning and adoption

Strategic Director,
Housing, Environment and
Healthy Communities

Community development, capacity building
and cohesion

Volunteering

Ward and neighbourhood management

Community health development

Private Housing

Enforcement

Council Housing management and
maintenance

Housing Growth and Development

Home Improvement Agency

Corporate Asset Strategy

HRA business planning and asset strategy

Property Management

Locality Planning and Delivery

Building Services including electrical and
mechanical engineering, asbestos and water
hygiene

Quantity Surveying

School asset management and development

Traffic management

Highways network management including
structures and drainage

Rights of Way

Civil Parking enforcement

Strategic housing

Resilience and major incident planning
Homelessness and support

Waste Strategy, collection and recycling

Waste Management Partnership

Grounds Maintenance

Cleansing Services

Countryside Management

Winter Maintenance

Vehicle and Fleet Management

Strategic Director,
Economy,
Innovation and
Growth

Land use policy (Local Plan)

Community Infrastructure Levy

Development Management

Built and natural environment including
heritage conservation, and urban design

Building Control

Licensing and Regulatory Services including
environmental health, trading standards, taxi
and alcohol licensing

Energy strategy and climate change

Traffic, transport and highways policy and
research

Major projects

Contaminated land strategy

Economic growth and regeneration

Enterprise and Industry

Employment, Skills and Inclusion

Business Centres

Design including commissioning of works, major project management and contract administration

Enforcement

Director of Public Health

Functions and responsibilities under the Health and Social Care Act 2012 and the National Health Service Act 2006 and all related legislation

Libraries

Culture, sport and arts development

Events

GO Gateshead Sport and Leisure

Service Director,
Office of the Chief Executive

Strategic policy and planning framework

Corporate research and intelligence framework

Corporate communications framework

(d) Head of Paid Service, Monitoring Officer, Chief Finance Officer and Director of Public Health

The following posts are currently designated as the Head of Paid Service and the Monitoring Officer under sections 4 and 5 respectively of the Local Government and Housing Act 1989, and as the Chief Finance Officer with responsibility for the administration of the authority's financial affairs under section 151 of the Local Government Act 1972.

Post	Designation
Chief Executive	Head of Paid Service
Strategic Director, Corporate Services and Governance	Monitoring Officer
Strategic Director, Resources and Digital	Chief Finance Officer

The Director of Public Health is a statutory chief officer post appointed under Section 73A National Health Service Act 2006 as amended by Section 30 of the Health and Social Care Act 2012.

(e) Structure

The Chief Executive will determine and publicise from time to time a description of the overall structure of the council showing the management structure and the deployment of employees. This is set out in part 7 of this constitution.

13.02 Functions of the Head of Paid Service

By law, the Chief Executive as Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated; the number and grade of employees required for the discharge of functions and the organisation of employees.

13.03 Functions of the Monitoring Officer

By law, the Strategic Director, Corporate Services and Governance as Monitoring Officer, will have the following responsibilities:

(a) Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to unlawfulness. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(b) Conducting Investigations

The Monitoring Officer, following consultation with the Independent Person, will decide if a complaint of failure to comply with the Councillors' Code of Conduct merits formal investigation and, if it does, to arrange such investigation. He/she will seek resolution of complaints without formal investigation wherever practicable and refer decisions about investigations to the Audit and Standards Committee where he/she feels that it is inappropriate for him/her to take the decision.

(c) Proper officer for access to information

The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant reports of employees and background papers, are made publicly available as soon as possible. The Monitoring Officer will also determine whether information should be exempt from disclosure where that information would, or would be likely to inhibit the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation or the effective conduct of public affairs.

Under the constitution, the Strategic Director, Corporate Services and Governance as Monitoring Officer, will have the following responsibilities:

(d) Maintaining the Constitution

The Monitoring Officer will maintain an up to date version of the constitution and will ensure that it is widely available for consultation by councillors, employees and the public.

(e) Determining whether executive decisions are within the budget and policy framework

The Monitoring Officer will determine whether decisions of the Cabinet are in accordance with the budget and policy framework.

(f) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

(g) Supporting the Audit and Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee.

13.04 Functions of the Chief Finance Officer

By law, the Strategic Director, Resources and Digital as Chief Finance Officer, will have the following responsibilities:

(a) Ensuring lawfulness and financial prudence of decision-making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the council or the executive in relation to an executive function, and the Council's external auditor, if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) Administration of financial affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council. The Chief Finance Officer is also the Council's designated Money Laundering Reporting Officer.

Under the constitution, the Strategic Director, Resources and Digital as Chief Finance Officer, will have the following responsibilities:

(c) Contributing to corporate management

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

- (d) **Providing advice**
The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and employees in their respective roles.
- (e) **Give financial information**
The Chief Finance Officer will provide financial information to the media, members of the public and the community.

13.05 Functions of the Director of Public Health

- (1) To discharge any functions in relation to the corporate public health duties of the Council authorised to the Director of Public Health under the NHS Act 2006 and the Health & Social Care Act 2012 including responsibility for:
 - (a) preparing the annual report on the health of the local population;
 - (b) undertaking duties to take steps to improve public health;
 - (c) exercising the Council's functions in planning for and responding to emergencies that present a risk to public health;
 - (d) working with local Criminal Justice Partners and Police and Crime Commissioners to promote safer communities, including cooperating with the police, the probation service and the prison service to assess the risk posed by violent or sexual offenders;
 - (e) the Council's public health response as a responsible authority under the Licensing Act 2003 and making such representations about licensing applications as are appropriate;
 - (f) in those cases where the Council provides or commissions a maternity or child health clinic, for providing Health Start Vitamins under the Healthy Start and Welfare Food Regulations 2005.
- (2) To carry out such public health protection or health improvement functions as the Secretary of State shall delegate to local authorities either by arrangement or under regulations and including services mandated by regulations made under section 6C of the National Health Service Act 2006 as amended, namely:
 - (a) ensuring appropriate access to sexual health services;
 - (b) the delivery of the National Child Measure Programme;
 - (c) the delivery of the NHS Health check Assessment;
 - (d) public health advice to NHS Commissioners;
 - (e) the delivery of the Healthy Child Programme.
- (3) To perform such other public health functions as the Secretary of State specifies in Regulations (section 73A(1) of the National Health Service Act 2006 refers as amended by section 30 of the Health and Social Care Act 2012.

13.06 Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Director of Public Health

The Council will provide the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Director of Public Health with such employees, accommodation and other resources as are in the opinion of those officers, sufficient to allow their duties to be performed.

13.07 Conduct

Employees will comply with the Code of Conduct for Employees and the protocol on councillor/officer relations set out in part 5 of this constitution.

ARTICLE 14 – DECISION MAKING

14.01 Responsibility for decision-making

The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in part 3 of this constitution.

14.02 Process of decision-making

In this article, and article 14.03, ‘decisions’ means decisions taken by the full Council, the Cabinet or any committee or manager authorised to take a decision.

All decisions will be made following:

- The taking of professional advice from the Chief Executive, chief officers or officers nominated by them in accordance with the procedures set out in article 14.04
- Due consultation, whenever practicable, with councillors representing the ward(s) likely to be affected by the decision
- Due regard being had to views and wishes of residents and stakeholders

The Council, the Cabinet and other bodies will observe the Rules set out in part 4 of the constitution that apply to them, namely:

The Full Council	Council Procedure Rules
The Cabinet	Cabinet Procedure Rules
Overview and Scrutiny Committees	Overview and Scrutiny Rules
Council committees and sub-committees	Rules 24 – 28 of the Council Procedure Rules

14.03 Principles of decision-making

All decision will be made in accordance with all statutory requirements and in particular the following principles:

- i. proportionality (that is, the action must be proportionate to the desired outcome)
- ii. respect for human rights
- iii. the duty to promote equal opportunities
- iv. the duty to combat crime and disorder
- v. a presumption in favour of openness including openness about the reasons for decisions and options considered
- vi. clarity of aims and desired outcomes

- vii. the power to promote the economic, social and environmental well-being of the authority's area

14.04 Officers' role in support of decision-making

- (a) The Chief Executive will have primary responsibility for ensuring that all decisions taken by the Council, the Cabinet or any other Council body are taken according to a proper process and full consideration of all relevant facts and circumstances. In particular he/she will secure that:
 - A written report containing relevant information and appropriate professional advice is made available whenever a decision is taken by the Council, the Cabinet or any other Council body (except that in cases of urgency or other exceptional circumstances a matter may be dealt with by way of an oral report)
 - Appropriate officers may attend any meeting at which a decision is to be made
- (b) For this purpose, the Chief Executive may require any officer to prepare a report to a decision-making body or to attend such a body and give advice on matters within his/her knowledge or professional expertise.
- (c) The Chief Executive may call a meeting of the Council, the Cabinet or any other Council body if it appears to the Monitoring Officer necessary to do so.
- (d) The Chief Executive, Monitoring Officer or Chief Finance Officer may put any item on the agenda of the Council, the Cabinet or any other Council body if it appears to him/her to be necessary to do so.
- (e) The Chief Executive, Monitoring Officer and Chief Finance Officer will be given the opportunity to comment on every report submitted to a decision-making body.

14.05 Decisions reserved to full Council

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

14.06 Key Decisions

- (a) A key decision is an executive decision which is likely:
 - to result in the Council incurring expenditure which is, or the making of savings which are, significant (in excess of £250,000) having regard to the Council's budget for the service or function to which the decision relates; or

- to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area.
- (b) When taking key decisions, decision takers will comply with the relevant requirements of the Access to Information Rules and Cabinet Procedure Rules

ARTICLE 15 – FINANCE, CONTRACTS AND LEGAL MATTERS

15.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial Rules set out in part 4 of this constitution

15.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in part 4 of this constitution.

ARTICLE 16 – REVIEW AND REVISION OF THE CONSTITUTION

16.01 Duty to Monitor and Review the Constitution

The Chief Executive and the Monitoring Officer will monitor and review the constitution to ensure that the aims and principles of the constitution are given full effect. As part of the review, they will report on any significant breaches of the constitution that may have occurred.

The Monitoring Officer may make changes to any part of the Constitution:-

- (i) if he/she considers it necessary to comply with the law, including all necessary updating to comply with new legislation, following consultation with the Leader of the Council and the Leader of the Opposition;
or
- (ii) to give effect to any decision of the Council or Cabinet.

If the Monitoring Officer takes action under (i) or (ii) above in respect of an executive or non-executive function, it shall be reported to Cabinet and Council at the next annual review of the Constitution.

16.02 Changes to the Constitution

(a) Approval

Subject to Article 13.01, changes to the constitution will only be approved by the full Council after consideration of a report by the Chief Executive and Monitoring Officer. The report will state what consultation, if any, has been carried out in relation to the proposed change. Such consultation will be proportionate to the scale, scope and extent of change required. In particular consultation will not be required where the changes only reflect the internal management arrangements of the Council or is of a technical nature (for example, to update references to legislation or to correct spelling or grammatical errors).

(b) Change and Form of Executive

The Council must take reasonable steps (and any steps required by legislation) to consult with local electors and other interested persons in the area when drawing up any proposals to change from a leader and cabinet form of executive.

ARTICLE 17 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

17.01 Suspension of the Constitution

- (a) Limit to suspension
The Articles of this constitution may not be suspended. The Rules of Procedure set out in part 4 of this constitution may be suspended to the extent permitted within those Rules and the law.
- (b) Procedure to suspend
Where any question relating to the suspension of a Rule arises at a meeting of the Council, the Cabinet, an Overview and Scrutiny Committee or any other body, a motion to suspend the Rule may be moved without notice but only if at least one half of the members of that body are present. The extent and duration of suspension will be proportionate to the result achieved, taking account of the purposes of the constitution set out in Article 1.

17.02 Interpretation

The Monitoring Officer will interpret the Constitution when asked to do so or when he/she considers it necessary to do so. Such interpretation will have regard to the purposes of this constitution contained in Article 1. This is without prejudice to the responsibility of the Mayor to interpret the Council Procedure Rules.

17.03 Publication

- (a) Every member of the Council will receive a copy of this constitution when he/she signs her declaration of acceptance of office on first being elected to the Council.
- (b) Copies of the constitution will be available for inspection at the Civic Centre and on the Council's website, and may be purchased on payment of a reasonable fee.
- (c) The summary of the constitution will be made widely available within the area and updated as necessary.

SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS

The following parts of this constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Rules;
2. Article 7 (The Cabinet and the Cabinet procedure Rules);
3. Article 12 (joint arrangements) and schedule 4 to part 3 (executive functions dealt with under joint arrangements);
4. Article 14 (Decision making) and the Access to Information Rules;
5. Part 3 (Responsibility for Functions), in so far as it relates to the executive functions.

PART 3

RESPONSIBILITY FOR FUNCTIONS

PART 3 – RESPONSIBILITY FOR FUNCTIONS

This part of the constitution explains who is responsible for the various functions of the Council. Functions fall into the following categories:

1. Non-executive functions

These are functions which, under law, may not be the responsibility of the executive. In some cases, such as adopting the Council's budget or the policy framework, only the full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a committee or a manager. Annex 1A sets out which non-executive functions will be exercised by the full Council and which will be delegated to specified committees or managers.

2. 'Local Choice' functions

There are some functions which the Council may treat as being the responsibility of the executive (in part or whole) or as being non-executive, at its discretion. These functions are listed in Annex 1B, which also shows who is authorised to take the decision.

3. Executive functions

All other functions are executive functions. Decisions on these functions will be taken by the Cabinet unless they are dealt with under joint arrangements or delegated, under this constitution, to a manager. Details of such delegations are set out in Annex 1C.

The following Rules apply in relations to delegation:

- (i) Where a function (whether executive or non-executive) is delegated to a committee or any other body, or to a manager, the body or person that delegated the function may direct in any particular case that the delegation is not to apply, and may determine the matter himself/herself/itself.
- (ii) A committee or other body, or a manager, to whom any function (whether executive or non-executive) is delegated, is not obliged to exercise that delegation and may report to the Council or the Cabinet (as the case may be) or any other appropriate body on any delegated matter.

ANNEX 1A – NON-EXECUTIVE FUNCTIONS

The Council will establish the following bodies to deal with non-executive functions as shown in this Annex.

The Council will appoint the stated number of councillors to each body at the Annual Meeting. The Council may vary the number of councillors appointed to each body at its discretion.

Name of Body	Number of Cabinet Members	Number of Non-Cabinet Members	Total
Accounts	2	1	3
Appeals	-	22	22
Audit and Standards	2	5	11*
Contracts	3	2	5
Health and Wellbeing Board	4	4	20**
Licensing	-	15	15
Regulatory	-	15	15
Personnel Appeals	3	7	10***
Planning and Development	-	23	23
Rights of Way	-	7	7
Special Appointments	6	9	15

*Includes three independent members and one Lamesley Parish Councillor.

**The membership also includes 12 non councillor members.

***Redundancy appeals will be considered by a politically balanced Sub Committee consisting of 3 members of the Personnel Sub Committee.

The Planning and Development and Appeals Committees will as far as possible consist of one member per ward.

The Licensing and Regulatory Committees will have the same membership.

Matters to be dealt with by the full Council

The Council meeting will exercise the following functions, duties and powers (in addition to those listed in Article 4.02):

- (i) determining the amount of any allowance payable under sections 3 and 5 of the Local Government Act 1972 (chair's/vice-chair's expenses);
- (ii) determining a scheme for basic, attendance and special responsibility allowances in accordance with section 18 of the Local Government and Housing Act 1989 and any Regulations made thereunder;
- (iii) determining whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of the executive, and the amount of any such charge;

- (iv) the powers and duties of the Council in relation to elections and electoral registration, including:
 - (a) the appointment of an electoral registration officer and a returning officer for local government elections;
 - (b) the division of the authority's area into polling districts
 - (c) the submission to the Secretary of State of proposals for pilot schemes for local elections;
- (v) functions and powers of the Council in relation to parish councils (except for matters which are the responsibility of the Audit and Standards Committee);
- (vi) the functions of the Council in relation to local government pensions;
- (vii) the duty to approve the authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be);
- (viii) the power to make payments or provide other benefits in cases of maladministration in accordance with section 92 of the Local Government Act 2000;
- (ix) the functions of the Council relating to sea fisheries;
- (x) the duty under section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the authority's financial affairs;
- (xi) the duty to designate an officer as head of the paid service and to designate an officer as the monitoring officer, and to provide them with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed;
- (xii) the power to appoint proper officers under section 270(3) of the Local Government Act 1972;
- (xiii) the duty to approve proposals in connection with the preparation of an altered or replacement development plan, prior to public consultation, under regulations 10 and 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999;
- (xiv) on the recommendation of the Cabinet and the receipt of a report from the Chief Executive, to appoint an existing employee to a chief officer post as part of a re-organisation of the service or services concerned;
- (xv) the power under section 166 of the Gambling Act 2005 to resolve not to issue casino premises licences;
- (xvi) the power under section 212 of the Gambling Act 2005 to determine any fees payable to the Council under that Act;

- (xvii) the duty to determine, publish and review the Council's Statements of Principle under the Licensing Act 2003 and Gambling Act 2005;
- (xviii) the power to appoint Public Analysts pursuant to section 27 of the Food Safety Act 1990;
- (xix) the power to appoint Agricultural Analysts pursuant to section 67 of the Agriculture Act 1970;
- (xx) the power to appoint, jointly with the Secretary of State, a Director of Public Health under the Health and Social Care Act 2012;
- (xxi) the duty to publish the annual report on the health of the local population as produced by the Director of Public Health;
- (xxii) dismissal of Statutory Officers in accordance with the procedure set out in the Employee Recruitment Rules and the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

Delegations to Council bodies

Council bodies will exercise non-executive functions as set out in the following Schedule 1 subject to any conditions or restrictions imposed by the Council.

SCHEDULE 1 – NON-EXECUTIVE FUNCTIONS – DELEGATION TO COUNCIL BODIES

1. Planning and Development Committee

Except when a matter is delegated to the Service Director, Climate Change, Compliance, Planning and Transport, the Planning and Development Committee has delegated power:

- (i) to exercise the powers and duties of the Council as local planning authority under the following legislation (or any statutory modification or re-enactment) and any statutory instruments made under the legislation:
 - a. Part III and Part XV Town and Country Planning Act 1990 – control over development;
 - b. Part VII Town and Country Planning Act 1990 – enforcement;
 - c. Part VIII Town and Country Planning Act 1990 – trees, land adversity affecting amenity and the control of advertisements;
 - d. Part XIII Town and Country Planning Act 1990 – Crown Land;
 - e. Planning (Listed Building and Conservation Areas) Act 1990;
 - f. The Town and Country Planning (Assessment of Environmental Effects) Regulations 1998
- (ii) to exercise the powers and duties of the Council under the Planning (Hazardous Substances) Act 1990
- (iii) to exercise the powers and duties of the Council as Local Planning Authority under the Hedgerows Regulations 1997;
- (iv) to respond to waste management licence consultations from the Environment Agency
- (v) to respond to consultations from other local planning authorities and from Government departments and agencies relating to development management matters
- (vi) to determine the conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites are to be subject;
- (vii) to exercise the powers of the Council to make limestone pavement orders under the Wildlife and Countryside Act 1981;
- (viii) to exercise the powers of the Council:

- a. to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to an exchange of lands under the Acquisition of Land Act 1981 or an order under the Inclosure Act 1845; and
 - b. to register variation of rights of common land.
- (ix) To exercise the powers of the Council under the Town and Country Planning (Brownfield Land Register) Regulations 2017 to prepare and maintain a register of previously developed land.
 - (x) To exercise the powers of the Council under the Housing and Planning Act 2016 and The Town and Country Planning (Permission in Principle) Order 2017 to allocate land to Part 2 of the Council's register of previously adopted land.
 - (xi) To exercise the powers of the Council under the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 to determine applications for permission in principle and technical details consent.

2. Licensing Committee

The Licensing Committee will:

- (i) Exercise all the powers and duties of the Council under the Licensing Act 2003 and the Gambling Act 2005, except for those functions which are reserved to the Council.
- (ii) May arrange for any functions that it exercises to be discharged by:
 - (a) a sub-committee established by it (this should consist of three councillors);
 - (b) an officer of the Council as Licensing Authority in accordance with the Statement of Licensing Policy approved by the Council from time to time.

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

3. Regulatory Committee

The Regulatory Committee, except where the matter is delegated to the Service Director, Climate Change, Compliance, Planning and Transport, has delegated powers:

- (a) to determine licensing applications in the following areas, where there has been a refusal to grant, renew, vary or transfer a license to where there are relevant objections to such applications; and to consider the

revocation of existing licences:

- animal boarding establishments
 - dangerous wild animals
 - dog breeding establishments
 - hypnotism
 - motor salvage operators
 - pet shops
 - pleasure boats and navigators
 - sex establishments
 - street collections
 - street trading
 - scrap metal dealers
- (b) to grant and renew licences for Hackney Carriages, Hackney Carriage Drivers, Private Hire Vehicles, Private Hire Drivers and Private Hire Operators (including Dual Driver licences) where the application does not meet the Council's standard conditions, but having regard to all relevant information, it is determined that the individual circumstances justify deviation from policy;
- (c) to vary, suspend and revoke such licences where, having regard to all relevant information, it is determined that in individual circumstances it is appropriate to do so;
- (d) to deal with all applications for approved venue status under the Marriage Act 1949 and Civil Partnerships Act 2004 where there has been a request to review the decision of the Proper Officer to refuse approval or to grant approval subject to the imposition of condition(s);
- (e) to deal with control and enforcement of the law relating to safety at sports grounds; and
- (f) to deal with any licence and registration which is not delegated to any other body.

4. Rights of Way Committee

The Committee has delegated power to exercise the powers and duties of the Council to:

- (i) create, stop up and divert footpaths and bridleways;
- (ii) assert and protect the rights of the public to use and enjoyment of highways;
- (iii) remove things so deposited on highways as to be a nuisance;
- (iv) keep the Council's definitive map and statement under review;
- (v) reclassify roads used as public paths; and

- (vi) discharge any other function which is classed as a function relating to public rights of way in Part I Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

5. Appeals Committee

The Appeals Committee has delegated power:

- (i) to determine appeals
 - (a) against decisions on the award of discretionary financial assistance to students;
 - (b) from introductory tenants against decisions to end their tenancies;
 - (c) from persons who have been excluded from the housing register or whose application for re-housing has been deferred;
 - (d) against decisions relating to homelessness;
 - (e) against decisions regarding adaptations to dwellings occupied by disabled persons;
 - (f) against refusal by the Director of Adult Services or Director of Children's Services to waive or amend discretionary charges;
 - (g) against the decisions to remove a medical priority for housing;
 - (h) against decisions of the Council to use mandatory grounds of possession in anti-social behaviour cases;
 - (i) against Council decisions relating to charging and financial assessment for adult care and support services;
 - (j) against decisions relating to home to school and college travel.
- (ii) to review, at the request of aggrieved persons, any decision concerning access to, or rectification or erasure of, any information (Access to Personal Files Act 1987 and associated Regulations);
- (iii) to determine any other appeal where the Council's policies provide a right of appeal against a decision made by or on behalf of the authority, except where the matter is the responsibility of the Personnel Appeals Committee.

6. Personnel Appeals Committee

The Personnel Appeals Committee has delegated power to determine any appeal from an employee of the Council relating to conditions of service, promotion, demotion or dismissal, or disciplinary action including dismissal, or arising from the Council's grievance procedure.

7. Contracts Committee

The Contracts Committee has delegated power:

- (i) to negotiate and agree individual contracts of service with the Chief Executive, Strategic Directors and Service Directors;

- (ii) to agree the remuneration of the Chief Executive, Strategic Directors and Service Directors;
- (iii) to appraise the performance of the Chief Executive and arrange for the appraisal of Strategic Directors and Service Directors.

8. Special Appointments Committee

In accordance with the Employee Recruitment Rules, the Committee has delegated power:

- (i) in relation to the appointment of the Head of Paid Service, to select a short list of candidates, to interview candidates and make a recommendation to the Council;
- (ii) in relation to appointments to Chief Officer posts (as defined in the Employee Recruitment Rules) to select a short list of candidates, interview candidates and make the appointment; or, if considered appropriate, to fill the post by appointing an existing employee in circumstances where no reorganisation of a service is involved.

The Special Appointments Committee may appoint one or two additional non-voting Cabinet members to the Committee in relation to any particular appointment.

9. Audit and Standards Committee

The Audit and Standards Committee has delegated power to:

- (i) consider the effectiveness of the Council's risk management arrangements, the internal control environment and associated anti-fraud and anti-corruption arrangements;
- (ii) seek assurances, and satisfy itself, that action is being taken on risk-related issues identified by auditors and inspectors;
- (iii) satisfy itself that the Council's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it;
- (iv) approve the Council's Statement on Internal Control and Annual Governance Statement;
- (v) approve, but not direct, the Council's internal audit strategy and audit plan, and monitor its performance;
- (vi) review reports on internal audit activity and the main issues arising, and seek assurances that action has been taken where necessary;
- (vii) consider the annual audit report on internal audit activity;

- (viii) consider the reports of external audit and inspection agencies;
- (ix) review the scope and depth of external audit work, inspection agencies and other relevant bodies, and ensure that they provide value for money;
- (x) raise the profile of audit, risk management and the internal control environment;
- (xi) review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit;
- (xii) consider the Council's arrangements for Corporate Governance and agreeing necessary actions to ensure compliance with best practice;
- (xiii) consider treasury management performance reports;
- (xiv) promote and maintain high standards of conduct by councillors and co-opted members;
- (xv) assist the councillors and co-opted members to observe the Members' Code of Conduct;
- (xvi) advise the Council on the adoption or revision of the Members' Code of Conduct;
- (xvii) monitor the operation of the Members' Code of Conduct;
- (xviii) advise, train or arrange to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (xix) grant dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct so far as not delegated to the Monitoring Officer including holding hearings as appropriate undertaken by a standards sub-committee set up for the purpose;
- (xx) assist and advise parish councils in the Borough, if requested and as appropriate, in relation to their discharge of functions (xiv)-(xix) above on request of their parish councillors;
- (xxi) in accordance with the approved delegations, deal with written allegations that a councillor or co-opted member (or former councillor or co-opted member) of the Council or a parish councillor or former parish councillor in the Borough has failed, or may have failed, to comply with the Members' Code of Conduct;
- (xxii) set from time to time appropriate allowances and expenses payable to the statutory Independent Persons;

- (xxiii) amend from time to time as it considers appropriate the arrangements to be followed in the initial consideration, investigation or hearing of any complaint of a breach of the Code of Conduct;
- (xxiv) take any of the actions in respect of any member who after investigation the Committee decides, following a recommendation from a standards sub-committee, has failed to comply with the Code of Conduct;
- (xxv) promote and maintain high standards of conduct by officers;
- (xxvi) assist officers to observe the Code of Conduct for Employees;
- (xxvii) monitor the operation of the Code of Conduct for Employees.

Standards Sanctions

Actions delegated to the Committee on a finding that a member has failed to comply with the Code of Conduct:

- Issue a formal censure.
- Recommend to full Council (or to the Parish Council) the issue of a formal censure by the Council (or by the Parish Council).
- Refer its findings to full Council (or the Parish Council) for information;
- Publish its findings by such means as the Committee thinks fit.
- Recommend to the Council (or the Parish Council) that the member be removed from any or all Committees or Sub-Committees (subject to the approval of the member's Group if applicable).
- Recommend to the Council (or the Parish Council) that the member be removed from being the chair or vice –chair of any Committees or Sub-Committee.
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or from particular portfolio responsibilities.
- Recommend to the Council (or the Parish Council) that the member be removed from one or more outside appointments to which s/he has been appointed or nominated by the Council (or the Parish Council).
- Instruct the Monitoring Officer to offer training to the member or recommend that the Parish Council should do so.

10. Accounts Committee

The Accounts Committee has delegated power to approve the Council's statement of accounts.

11. Health and Wellbeing Board

The Health and Wellbeing Board shall have such powers as are set out in Article 11 of the Constitution.

12. Pensions and Pay Discretions Sub-Committee

The Pensions and Pay Discretions Sub-Committee has delegated powers to determine:

- (i) requests from former employees or their spouses to access their deferred pensions on an unreduced or partially reduced basis;
- (ii) cases relating to employer discretions where added years have been awarded under Regulations 21, 22 and 25 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 or preceding regulations;
- (iii) discretionary pension issues which are not subject to other delegations set out in Part 3 of the Council's constitution; and
- (iv) requests from employees to extend periods of half and full sick pay.

SCHEDULE 2 – NON-EXECUTIVE FUNCTIONS – DELEGATIONS TO MANAGERS

General Principles

- (a) The powers listed in this schedule are delegated to the Chief Executive and to the designated managers indicated and may be exercised by them subject to any directions given by the Council or other body with responsibility for the matter covered by the delegation;
- (b) The references to Service Directors include the post of Deputy Strategic Director of Children, Adults and Families;
- (c) Strategic Directors may authorise Service Directors under their control, to deal with matters delegated to the Strategic Director concerned. Any such authority must be given in writing and must form part of a protocol on the exercise of delegations within that particular group;
- (d) Any delegation under this schedule to a Service Director may also be exercised by the Strategic Director to whom that Service Director reports;
- (e) In particular, a Strategic Director may intervene in any matter which is delegated to a particular manager within his/her group and give directions as to how the delegation is to be exercised, or exercise the delegation himself/herself.

PART 1 – DELEGATIONS TO INDIVIDUAL MANAGERS

1. Strategic Director, Economy, Innovation and Growth

Service Director, Climate Change, Compliance, Planning and Transport

- (1) Save in respect of matters otherwise reserved to the Council's Licensing and Regulatory Committees, to exercise the powers and duties of the Council for the application of legislation including the appointment and authorisation of appropriate officers, to authorise, sign and serve all notices and deal with all applications, variations, licences, consents, revocations and suspensions, and take all necessary enforcement action including to issue simple cautions, on behalf of the Council in respect of its responsibilities for matters of:
 - a) public protection and environmental protection
 - b) noise pollution, air pollution and integrated pollution control and air quality management
 - c) housing and building standards and security
 - d) fire safety
 - e) trading standards and consumer protection (including the appointment and termination of the Chief, and Deputy Chief, Inspector of weights and measures)
 - f) food safety and hygiene
 - g) licensing under the Licensing Act and Gambling Act

- h) sex establishment, street trading and private hire/hackney carriage licensing
 - i) building regulations
 - j) animal health and animal licensing
 - k) pest control under the Prevention of Damage by the Pest Act 1949
 - l) health and safety, control of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piecing and electrolysis
 - m) highways licensing and enforcement
 - n) climate change
- (2) Under the Licensing Act 2003 and Gambling Act 2005 and as delegated by the Licensing and Regulatory Committees:
- a) to determine any application or similar matter, where there are no relevant objections or representation;
 - b) to determine whether a representation is irrelevant, frivolous or vexatious;
 - c) to make representations for a review of a premises licence.
- (3) To authorise persons to accompany inspectors and to include exercise of powers under the Health and Safety at Work Act 1974 or Environmental Act 1995.
- (4) To carry out provisions of Part 1 and Schedules 1 and 2 of the Health Act 2006 and all delegated legislation made under these parts of the Act.
- (5) To authorise transfers of enforcement responsibility between the Health and Safety Executive and the Council under the Health and Safety (Enforcing Authority) Regulations 1998.
- (6) On the recommendation of the Proper Officer, to appoint Deputy Proper officers in relation to medical services provided by the Council.
- (7) To determine applications, notifications, consultation, enforcement and all other matters within the terms of reference of the Planning and Development Committee subject to the exceptions specified below:
- a) Applications (other than those for the discharge of conditions; extensions of time; section 73 applications; applications relating to block improvements of housing schemes; or replacement of industrial development (use class B2 and/or B8) on an allocated employment site) for major development as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 and any subsequent amendments to it.
- The Service Director, Development, Climate Change, Compliance, Planning and Transport may refuse an application for major development where it is clearly contrary to a relevant Council planning policy.
- b) Mineral applications

- c) Applications which are a departure from the Development Plan as defined by the Town and Country Planning (Development Procedure) (England) Order 2015 if the Council was minded to grant permission for them.
- d) Applications which are subject to an objection from a statutory consultee (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 which has not been resolved by negotiation or the imposition of conditions.
- e) Applications (other than those for PS2 reporting defined minor and other development or the discharge of conditions) submitted by or on behalf of the Council for its own development which are the subject of an objection which has not been resolved by negotiation or the imposition of conditions.
- f) Applications submitted by or on behalf of a Gateshead Councillor or their spouse or partner.
- g) Applications submitted by or on behalf of:
 - The Chief Executive or any Strategic Director or the Service Director, Climate Change, Compliance, Planning and Transport
 - Any member of staff of the Development Management Team
 - Any member of staff directly involved in the processing or determination of any planning application
- h) Applications recommended for approval where written representations objecting to the application and containing relevant and material planning reasons from five or more separate persons or a petition of more than 5 separate persons against the application have been lodged. Applications recommended for refusal where written representations supporting the application and containing relevant and material planning reasons from five or more separate persons or a petition of more than 5 separate persons in support of the application have been lodged. (Representations, whether by letter(s) or petition, by persons living as part of a single household will be considered to be one representation).
- i) Applications where a member of the Council, Member of Parliament for the Borough, Member of the European Parliament for the Borough or a parish council within the Borough has objected to it or asked that it be determined by the Planning and Development Committee giving material planning reasons for doing so, in writing, in accordance with the Development Management - Protocol on Good Practice.
- j) Decisions in respect of the allocation of land to Part 2 of the Council's register of previously developed land kept pursuant to the Town and Country Planning (Brownfield Land Register) Regulations 2017 where the allocation would give rise to permission in principle:
 - for residential development of 10 or more dwellings, or where the number is not specified, the site is more than 0.5 hectares;

- for other development where the floor space is 1000 square meters or more or the site is one hectare or more;
 - which would be a departure from the Development Plan as defined by the Town and Country Planning (Development Procedure) (England) Order 2015;
 - which would be contrary to an objection from a statutory consultee (as defined in the Town and Country Planning (Brownfield Land Register) Regulations 2017 which has not been resolved by negotiation or the imposition of conditions;
 - in respect of land owned by
 - a Gateshead Councillor or their spouse or partner;
 - The Chief Executive or any Strategic Director or the Service Director, Climate Change, Compliance, Planning and Transport;
 - Any member of staff of the Development Management Team or the Spatial Planning and Environment Team; or
 - Any member of staff directly involved in the processing or determination of the allocation
 - where five or more relevant and material planning objections have been lodged in writing, or a member of the Council, Member of Parliament for the Borough, Member of the European Parliament for the Borough or a parish council within the Borough has objected to it or asked that allocation be determined by the Planning and Development Committee.
- k) Applications which the Service Director, Climate Change, Compliance, Planning and Transport considers should be determined by Planning and Development Committee having regard to approved guidance on this matter.
- (8) Subject to the agreement of the Strategic Director, Corporate Services and Governance to agree to the Council entering into a planning obligation under section 106 of the Town and Country Planning Act 1990.
- (9) To determine whether planning applications should be subject to an environmental assessment (screening opinion) and the data which should be contained in environmental assessments (scoping report).
- (10) To respond to consultations from neighbouring planning authorities on applications.
- (11) To determine applications for certificate of lawfulness applications in all cases whether or not objections are received due to the nature of these applications being dealt with on 'balance of probability' for existing uses or by fact for proposed lawful uses.
- (12) With regard to the Planning (Hazardous Substances) Act 1990 to:
- a) Grant but not refuse hazardous substances consent

- b) Vary or remove conditions imposed upon a hazardous substance or deemed consent
or
 - c) Authorise the continuation of hazardous substances consent where there has been a change in the control of the land to which the consent related, provided that in the case of any application:
 - 1. no more than three relevant and material planning objections have been lodged in writing against it, and
 - 2. no member of the Council, Member of Parliament for the Borough, Member of the European Parliament for the Borough or a town or parish council within the Borough has objected to it or asked that it is determined by the Planning and Development Committee.
- (13) To determine applications for prior approval in relation to permitted development proposals in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and any subsequent amendments to it.
- (14) To decline to determine repetitive applications for planning permission under the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) and for advertisement consent under the Town and Country (Control of Advertisements) (England) Regulations 2007.
- (15) Following consultation with the Strategic Director, Corporate Services and Governance, to determine whether to take enforcement action under the provisions of the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990, including proceedings in the courts, in cases where retrospective applications for planning permission, conservation area consent or listed building consent have been refused by the Planning and Development Committee.
- (16) To issue simple cautions to persons guilty of criminal offences involving breaches of planning control.
- (17) To administer and determine complaints about high hedges under the Anti-Social Behaviour Act 2003.
- (18) To authorise in writing persons not directly employed by the Council but who are, by agreement, carrying out work in connection with any other delegated function or power to exercise any necessary power or entry, inspection or enforcement under relevant legislation. Similarly to authorise employees of other services in the Council, but this power shall only be exercised with the agreement of the employee's manager or the Strategic Director for that service.
- (19) To exercise the power of the Council under section 61 of the Local Government (Miscellaneous Provisions) Act 1976 to suspend or revoke the licence(s) of Hackney Carriage and Private Hire Vehicle drivers with immediate effect where,

following consultation with the Chair and/or Vice Chair of the Regulatory Committee, doing so appears to be in the interests of public safety.

- (20) To approve the issuing of Hackney Carriage and Private Hire Vehicle licences where the vehicle exceeds the Council's upper age policy and:
 - (i) the vehicle does not exceed the Council's upper age policy by more than 12 months;
 - (ii) where the vehicle is in "exceptional condition" (as determined by the Council's approved testing procedure);
 - (iii) the vehicle meets all of the Council's standard conditions; and
 - (iv) upon the condition that the vehicle be tested three times during the twelve month licence period (pro rata) at the licensee's expense.
- (21) To transfer Hackney Carriage and Private Hire Vehicle licenses where the application meets the Council's standard conditions approved by the Council from time to time.
- (22) To grant and renew licences for Hackney Carriages and Private Hire Vehicles where the application meets the Council's standard conditions save for condition 23 and/or 25 (Hackney Carriages) or 21 (v) (w) and/or 23 (Private Hire Vehicles) but has been inspected by officers from Environment and Fleet Management pursuant to s.50 Local Government (Miscellaneous Provisions) Act 1976, and has been deemed to be safe for use as a Hackney Carriage/Private Hire Vehicle as applicable.
- (23) Save in respect of a matter otherwise reserved to the Council's Planning and Development Committee to authorise, sign and serve notices and take all necessary enforcement action under section 215 and to obtain information under section 330 of the Town and Country Planning Act 1990.
- (24) Save in respect of matters otherwise reserved to the Council's Licensing and Regulatory Committees, to investigate complaints, authorise, sign and serve notices and take all enforcement action relating to statutory nuisance.
- (25) To obtain particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- (26) To authorise the submission of applications, including proposed conditions, on behalf of the Council to the Secretary of State under s.247 of the Town and Country Planning Act 1990.
- (27) To consider applications received and make orders under s.257 of the Town and Country Planning Act 1990, or refer them to the Rights of Way Committee for determination.
- (28) To authorise the making of orders under s.3 of the Cycle Tracks Act 1984, or refer them to the Rights of Way Committee for determination.

- (29) To be the Council's designated officer responsible for the implementation of the Community Infrastructure Levy.
- (30) To approve revisions to any of the matters in the Gateshead Community Infrastructure Levy Instalments Policy and Infrastructure Funding Statement.
- (31) To determine whether development should be subject to the Community Infrastructure Levy in accordance with the Council's charging schedule and the Community Infrastructure Levy Regulations 2010 and any subsequent amendments.
- (32) Following consultation with the Strategic Director, Corporate Services and Governance, to determine whether to take enforcement action under the provisions of the Community Infrastructure Levy Regulations 2010 and any subsequent amendments.
- (33) To take enforcement action against contraventions of the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005, Anti-Social Behaviour, Crime and Policing Act 2014, Control of Pollution (Amendment) Act 1989 and the Refuse Disposal (Amenity) Act 1978.

2. Strategic Director, Corporate Services and Governance

- (1) To institute, defend or participate in any legal proceedings on behalf of the Council or authorised officer, in any court or tribunal.
- (2) To settle any action in any court or tribunal in which the Council is a party, or where legal proceedings are to be commenced, up to £50,000, after consultation with the appropriate Strategic Director.
- (3) To authorise persons to enter land under:
 - (a) section 15 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) sections 196A, 214 and 324 of the Town and Country Planning Act 1990 (as amended);
 - (c) the Hedgerows Regulations 1997;
 - (d) section 88 of the Town and Country Planning (Listed Building and Conservation Area) Act 1990 (as amended)
- (4) Following consultation with the relevant chair, to select members from among the membership of the Appeals and Licensing Committees, to sit on Appeals hearings and Licensing Sub-Committee hearings.
- (5) To make arrangements for the appointment of any employee, who is deemed to be a redeployee under the relevant Council policies and human resources framework, to any post within the Council.
- (6) To agree variations to the Council's schemes for payments towards removal expenses, lodging allowance and legal fees for new employees.

- (7) To approve additional annual leave entitlement, where this is necessary as an aid to recruitment, for new entrants to the Council's service who do not qualify automatically for the service-related component of annual leave, up to a maximum allowable under the human resources framework.
- (8) To approve attendance at training courses costing over £400, or at conferences or seminars where attendance has not been approved by any other body.
- (9) To approve applications for early retirement and flexible retirement.
- (10) To approve applications for early release of unreduced or partially reduced deferred pension benefits for serving employees of the Council.
- (11) To approve applications for leave of absence in cases which are not covered by the Council's human resources framework, except for employees who are unable to take holiday during the school term.
- (12) To determine the grading/re-grading of posts on the Council's establishment in accordance with agreed procedures for job evaluation.
- (13) To deal with all application for approved venue status as Proper Officer for the purpose of the Marriage Act 1949, the Civil Partnerships Act 2004 and the marriages and Civil Partnerships (Approved Premises)(Amendment) Regulations 2011, pursuant to Article 13.01(c) of this Constitution.
- (14) To interpret and apply national agreements, if the subject matter is not specifically covered by the Pay Policy, following consultation with the Leader of the Council and the Strategic Director, Resources and Digital, and, if deemed appropriate, having taken advice from the LGA and/or the Employers' Organisation.
- (15) Following a request by an employee's Strategic Director or Service Director, to determine whether pay increments should be accelerated within an employee's grade on the grounds of special merit or ability, subject to the maximum of the grade not being exceeded.
- (16) In respect of new appointments, to determine whether there are special circumstances that objectively justify payment at a higher level within the grade rather than at the bottom spinal column point of the relevant pay band.
- (17) To approve minor changes to the Human Resources Policy Framework, following consultation with the Leader of the Council.
- (18) To fulfil the role of the Council's Proper Officer as set out in legislation in relation to the powers and duties of the Council, except where this is otherwise specified in the constitution.

- (19) To agree the re-structure of a service at below service director level, following consultation with the Leader of the Council and the Strategic Director, Resources and Digital.
- (20) As Monitoring Officer to may make changes to any part of the Constitution:
 - (i) if he/she considers it necessary to comply with the law, including all necessary updating to comply with new legislation, following consultation with the Leader of the Council and the Leader of the Opposition; or
 - (ii) to give effect to any decision of the Council or Cabinet.
- (21) To enter into contracts (including framework agreements) for the supply of works, goods and services subject to the Contract Procedure Rules. This power may be further delegated to the Service Director, Legal and Democratic Services.
- (22) As Senior Information Risk Owner, to appoint on behalf of the Council an officer of the Council as a Data Protection Officer and, following consultation with the Strategic Director, Care, Wellbeing and Learning, a Caldicott Guardian.
- (23) To determine the level of payments for staff working on all elections and referenda.

3. Strategic Director, Resources and Digital

- (1) To deal with claims by employees without regard to legal liability for loss or damage to personal property (other than private cars and tools) arising in the course of their employment where the amount of claim does not exceed £300.
- (2) To amend statutory fees and charges and those tied to service level agreements or charged annually.
- (3) To approve commercially sensitive traded fees and charges, following consultation with the Leader and the Deputy Leader of the Council.
- (4) To amend fees and charges during the financial year for any changes in legislation, changes to statutory fees or any changes to the rate of VAT.
- (5) To make any necessary adjustments during the financial year to correct any errors in the schedule of fees and charges.
- (6) To approve all “administrative” virements, up to a value of £250,000, in consultation with the relevant Service Director or Service Directors if the virement is across service responsibility areas. Administrative can be defined as those virements where there are no changes to service delivery or Council policy. An example may include a service restructure or where responsibility for a service delivery area is moving but essentially the same service is still being delivered.

- (7) To approve all virements from contingencies. This can include both permanent changes and one-off changes to reflect in-year demand pressures.
- (8) To provide information as requested by the Tyne and Wear Pension Fund on behalf of the Council and also to provide a Council guarantee or make any necessary contributions or payments for Pension Fund Liabilities in relation to:
 - Regional charitable or not for profit organisations; and
 - Insourced services and commissioning arrangements.
- (9) To approve a charging or trading opportunity, in consultation with the Strategic Director, Corporate Services and Governance and the relevant Strategic Director from whose service the idea originates, where:
 - The type of service/goods/works is already provided internally to the council; or
 - The turnover is less than £100,000 (as determined in charging methodology).

4. Director of Public Health

- (1) To carry out the functions set out at Article 13 (Employees of the Council).
- (2) To prepare an annual report on the health needs of the local population to be published by the Council.
- (3) To take part in the Council's action to meet the needs of vulnerable children for example linking effectively with the Local Safeguarding Children Board.
- (4) To provide leadership, expertise and advice to Senior Officers and elected Members on a range of issues from outbreaks of disease and emergency preparedness through to improving local people's health concerns around access to health services.
- (5) To improve the population's health by understanding the factors that determines health and ill health, by knowing how to change behaviour and promote both health and wellbeing in ways that reduce inequalities in health.
- (6) To provide the public with expert, objective advice on health matters.
- (7) To work through local resilience forums to ensure effective and tested plans are in place for the wider health sector to protect the local population from risk to public health and including exercising functions in planning for and responding to emergencies that present a risk to public health.
- (8) To contribute to the Local Health Resilience Partnership (LHRP) for Northumberland, Tyne and Wear, either as lead Director of Public Health who co-chairs the LHRP or supporting Director of Public Health.

- (9) To ensure oversight of the NHS screening programme, both cancer and non-cancer, ante-natal and children's screening programmes, ensuring the health of the population is adequately protected and raising issues and concerns appropriately.
- (10) To ensure oversight of the NHS immunisation programmes including children 0-5 years, HPV and seasonal flu and any other that the Secretary of State instructs, including catch up programmes, raising issues and concerns appropriately.
- (11) The making of arrangements on behalf of the Council to secure the provision of oral health promotion programmes to improve the health of persons in its area.
- (12) Provide or secure the provision of oral health surveys to facilitate the assessment and monitoring of oral health needs; the planning and evaluation of oral health promotion programmes; the planning and evaluation of the arrangements for provision of dental services as part of the health service.
- (13) Where there are water fluoridation programmes affecting the Council's area the monitoring and reporting of the effect of the water fluoridation programmes.
- (14) To discharge the Council's responsibilities in relation to communicable and infectious diseases, including healthcare acquired infections.
- (15) Implementing or determining, subject to any rights of review of appeal which may apply, all matters concerning the statutory public health complaints procedure.
- (16) Setting, varying and recovering charges in respect of certain steps take in the exercise of health improvement duties.

5. Strategic Director, Housing, Environment and Healthy Communities

Service Director, Group Strategy and Residential Growth

- (1) Save in respect of matters otherwise reserved to the Council's Licensing and Regulatory Committees, to exercise the powers and duties of the Council for the application of legislation including the appointment and authorisation of appropriate officers, to authorise, sign and serve all notices and deal with all applications, variations, licences, consents, revocations and suspensions, and take all necessary enforcement action including to issue simple cautions, on behalf of the Council in respect of its responsibilities for matters of:
 - a) public protection and environmental protection
 - b) noise pollution, air pollution and integrated pollution control and air quality management
 - c) housing and building standards and security
 - d) fire safety

- (2) To exercise the powers of the Council in accordance with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and to authorise officers under his control to exercise such powers under Parts 4-6 of those Regulations.
- (3) Save in respect of matters otherwise reserved to the Council's Licensing and Regulatory Committees, to investigate complaints, authorise, sign and serve notices and take all enforcement action relating to statutory nuisance.
- (4) To exercise powers to license the use of land as a caravan site and the use of moveable dwellings and camping sites.
- (5) To obtain particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- (6) To take enforcement action against contraventions of the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005, Anti-Social Behaviour, Crime and Policing Act 2014, Control of Pollution (Amendment) Act 1989 and the Refuse Disposal (Amenity) Act 1978.

Service Director, Highways and Waste

- (1) To authorise the serving of notices under section 220 of the Highways Act 1980.
- (2) To authorise notices under Part IX Highways Act 1980 and the taking of action under Section 303 and 333 of Highways Act 1980

Service Director, Environment and Fleet Management

- (1) To take enforcement action against contraventions of the Environmental Protection Act 1990 and Clean Neighbourhoods and Environment Act 2005 and the Dogs (Fouling of Land) Act 1996.

Service Director, Locality Services and Housing Options

- (1) To approve and allocate the Local Community Fund to projects for which ward councillors request financial support.

Service Director, Property, Assets and Traded Services

- (1) To authorise, following consultation with the Strategic Director, Resources and Digital, price increases when required in the Council's coffee shops, restaurants and bars in line with business need and market forces.

GENERAL DELEGATIONS TO MANAGERS

In this part, unless otherwise stated, the term 'manager' includes:

- a) The Chief Executive
- b) A Strategic Director
- c) A Service Director (including the Deputy Director of Children, Adults and Families)
- d) Any employee authorised in writing by the Chief Executive to exercise a particular delegation

Subject to matters reserved to the Council and powers conferred on any other body of the Council or an individual officer under Part 1 of this schedule, a manager may exercise the following delegated powers:

1) Employees – Appointment, Dismissal, Disciplinary Action, or Suspension

- (a) A manager may, provided he/she has been nominated by the Chief Executive to do so:
 - (i) appoint employees at or below deputy chief officer level within the establishment
 - (ii) dismiss employees
 - (iii) take disciplinary action against employees
- (b) All appointments, dismissals and disciplinary action are subject to the Employee Recruitment Rules and the Council's human resources framework.
- (c) 'Disciplinary action' means any action occasioned by alleged misconduct which, if established, would according to the council's usual practice be recorded on the employee's personal file. It includes any dismissal of an employee for any reason other than redundancy, permanent ill health or infirmity of mind or body, but does not include failure to renew a fixed term contract unless the Council has already undertaken to renew the contract.
- (d) Suspension of an employee is not in itself disciplinary action. Suspension may be carried out by managers as defined at the beginning of this Part, or by other officers nominated by a Strategic Director.

2) Employees – Other Matters

- (a) A manager may, provided he/she acts within agreed procedures, deal with employee matters in accordance with the Council's human resources framework and with the relevant national conditions of service for the employees concerned as modified or extended by any local agreements.
- (b) With regard to employees' pay, to withhold an increment following an adverse report on an employee. Any withheld increment may be paid subsequently if the employee's services become satisfactory.

3) General

A manager may:

- (a) Act on behalf of the Council in accordance with:
 - i. Legal requirements
 - ii. The Council's policy framework;
 - iii. The Articles of the Constitution, Rules of Procedure and codes of practice and protocols (whether or not incorporated in this constitution)
 - iv. Any directions of the Council or other appropriate body in relation to the numbers or grades of employees

- (b) Serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences, request the Strategic Director, Corporate Services and Governance to take legal action, or take any other appropriate action to:
 - i. Safeguard the Council's interests;
 - ii. Prevent or mitigate harm or inconvenience to persons, property or the environment or
 - iii. Exercise discretionary power or comply with any duty of the Council

- (c) Authorise in writing other employees under his/her control to act on his/her behalf or in accordance with statutory powers.

- (d) Where it is impracticable to obtain authorisation from the body exercising the function and subject to the action being reported (for information) to the next convenient meeting of that body, take necessary urgent action, within legal powers, in respect of matters otherwise reserved to the Council, or any other body of the Council.

- (e) Determine whether a request for information under the Freedom of Information Act 2000 should be refused on the grounds that the information is exempt from disclosure and the public interest in disclosing the information is outweighed by the public interest in withholding it.

The Strategic Director, Corporate Services and Governance, is to be informed of all such refusals.

- (f) Approve attendance at training courses.

- (g) Execute and complete documents including contracts for the purchase of works, goods and services up to the value of £25,000, memoranda of understanding and inter departmental service level agreements, subject first to taking appropriate advice from legal and procurement officers in the Corporate Services and Governance Directorate having regard to the nature, complexity and scale of contractual commitments involved.

- (h) To agree consultation responses where there has been no referral to Cabinet and, where appropriate, to refer the response retrospectively to Cabinet for information.

ANNEX 1B – LOCAL CHOICE FUNCTIONS

Responsibility for local choice functions is as set out in Schedule 3 attached.

SCHEDULE 3 – RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

	FUNCTION	DECISION-MAKING BODY	DELEGATED TO
1.	The discharge of any function under a local Act	<p>1. The Planning and Development Committee, Licensing and Regulatory Committees, as appropriate in respect of any matter involving the determination of an application for a licence, approval or registration, or the direct regulation of a person together with any related enforcement action.</p> <p>2. The Cabinet, in respect of any other function</p>	The Service Director, Climate Change, Compliance, Planning and Transport.to the extent set out in Annex 1A
2.	The determination of an appeal against any decision made by or on behalf of the authority	The Appeals Committee, except where the matter is delegated to the Personnel Appeals Committee (see Annex 1A)	
3.	The appointment of reviews boards under the Social Security Act 1988	The Council	
4.	The making of arrangements for reviews in respect of the exclusion of pupils.	The Cabinet	
5.	The making of arrangements for school admission appeals	The Cabinet	
6.	The making of arrangements for appeals by Governors against the Authority's decision to admit a child who had previously been excluded	The Cabinet	

	FUNCTION	DECISION-MAKING BODY	DELEGATED TO
7.	The discharge of any function relating to contaminated land	<ol style="list-style-type: none"> 1. The Planning and Development Committee, insofar as it relates to serving and enforcing notices 2. The Cabinet, insofar as it relates to any other function (such as preparing a strategy or specific proposals) 	Employees to the extent set out in Annex 1A
8.	The discharge of any function relating to the control of pollution or the management of air quality	The Licensing and Regulatory Committees	The Service Director, Climate Change, Compliance, Planning and Transport to the extent set out in Annex 1A
9.	The service of an abatement notice in respect of a statutory nuisance	The Licensing and Regulatory Committees	The Service Director, Climate Change, Compliance, Planning and Transport to the extent set out in Annex 1A
10.	The passing of a resolution that Schedule 2 to the Statutory Nuisance Act 1993 should apply in the Authority's area	The Licensing and Regulatory Committees	The Service Director, Climate Change, Compliance, Planning and Transport to the extent set out in Annex 1A
11.	The inspection of the Authority's area to detect any statutory nuisance	The Licensing and Regulatory Committees	The Service Director, Climate Change, Compliance, Planning and Transport to the extent set out in Annex 1A
12.	The investigation of any complaint as to the existence of a statutory nuisance	The Licensing and Regulatory Committees	The Service Director, Climate Change, Compliance,

			Planning and Transport to the extent set out in Annex 1A
13.	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	The Planning and Development Committee	The Service Director, Climate Change, Compliance, Planning and Transport to the extent set out in Annex 1A
	FUNCTION	DECISION-MAKING BODY	DELEGATED TO
14.	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The Planning and Development Committee	The Service Director, Climate Change, Compliance, Planning and Transport to the extent set out in Annex 1A
15.	The appointment of any individual to an outside body (other than a joint committee) or a committee or sub-committee of an outside body	1. The Cabinet, in relation to functions which are the responsibility of the executive 2. The Council, in relation to all other appointments	
16.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	The Cabinet	
17.	Any function of the local authority in its capacity as a harbour authority	Not applicable	

ANNEX 1C – EXECUTIVE FUNCTIONS

General

1. All the functions of the Council are executive functions except for:
 - Those listed in Annex 1A
 - Those indicated in Annex 1B as being the responsibility of the Council or a body established by the Council
2. Executive functions will be exercised by the Cabinet collectively except where the matter is dealt with under joint arrangements (Schedule 4), or delegated to a manager (Schedule 5), or where the Council has agreed a proposal for decision-making by individual members of the Cabinet under Article 7.03, or in the case of hearings under the Scrap Metal Dealers Act 2013 where the matter is dealt with by a sub-committee comprised of three members of the Cabinet.
3. The Cabinet will discharge these functions in accordance with the Cabinet Procedure Rules and the Access to Information Rules.
4. The Cabinet will take all necessary steps to prepare the Authority's budget, and those plans and strategies which constitute the authority's policy framework as set out in Article 4 of this constitution, prior to their final approval and adoption by the Council. It will undertake this work in accordance with the Budget and Policy Framework Rules.

SCHEDULE 4 – EXECUTIVE FUNCTIONS DEALT WITH UNDER JOINT ARRANGEMENTS

The attached list (Annex D) briefly describes those executive functions that are delegated to a joint committee, with details of any advisory joint committee set to advise the authorities concerned (and/or their executives) on the discharge of such functions.

Further information on the exact nature of the delegated functions is contained in the relevant legal agreement.

Annex 1D

Function	Body
1. Archives – management of the Authority’s archives functions	Tyne and Wear Archives and Museum Joint Committee
2. Trading Standards <ul style="list-style-type: none"> • Co-ordination of enforcement functions • Management of the Tyne and Wear Metrology Laboratory 	Tyne and Wear Trading Standards Joint Committee
3. Management of the Shipley Art Gallery	Tyne and Wear Archives and Museums Joint Committee
4. Management of the North of England Open Air Museum (Beamish)	Joint Committee for the North of England Open Air Museum
5. Purchasing through a consortium of local authorities	North East Procurement Organisation
6. Management of the Mountsett Crematorium	Mountsett Crematorium Joint Committee
7. Shared Waste Management Arrangements	South of Tyne and Wear Waste Management Partnership

Advisory Joint Committees

Function	Body
8. To consider and advise on any matter affecting the councils within Tyne and Wear	Tyne and Wear Co-ordinating Committee
9. To advise Gateshead and Newcastle Councils on management and maintenance on cross-Tyne bridges	Joint Bridges Committee

SCHEDULE 5 – EXECUTIVE FUNCTIONS DELEGATED TO MANAGERS

General Principles

- (a) The powers listed in this Schedule are delegated to the Chief Executive and other managers indicated and may be exercised by them subject to any directions given by the Cabinet. In particular, the Chief Executive will issue from time to time, a list of delegated powers which may only be exercised after the manager concerned has consulted the Leader or other member(s) of the Cabinet nominated by him/her.
- (b) References to Service Directors include the post of Deputy Strategic Director of Children, Adults and Families
- (c) Strategic Directors may authorise Service Directors under their control to deal with matters delegated to them. Any such authority must be given in writing and must form part of a protocol on the exercise of delegations within that particular group.
- (d) Any delegation under this schedule to a Service Director may also be exercised by the Strategic Director to whom that Service Director reports.
- (e) In particular, a Strategic Director may intervene in any matter which is delegated to a manager within his/her group and give directions as to how the delegation is to be exercised, or exercise the delegation themselves.

PART 1 – DELEGATIONS TO INDIVIDUAL MANAGERS

1. Strategic Director, Children, Adults and Families

- (1) To be the Council's delegated Director of Adult Services under Section 6 of the Local Authority Social Services Act 1970.
- (2) In accordance with Council policy, to act on behalf of the Council as local social services authority by implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the provision of the following services to adults:
 - (a) Social care and support provision (including residential and nursing care, domiciliary care and day care) for persons requiring such provision and any assessment relating thereto including the waiving or amendment of discretionary charges in appropriate cases where it is demonstrated that it may not be reasonably practicable to pay;
 - (b) The provision of mental health services
 - (c) The statutory complaints procedure
 - (d) The protection of vulnerable adults from exploitation and abuse

- (3) To undertake any joint collaborative action with the National Health Service for the planning and provision of jointly operated services within the local area.
- (4) To enter into arrangements with the NHS under the National Health Services Act 2006 under the 'flexibilities' under the Act to improve the integration of health and social care services.
- (5) In accordance with the Council's Contract Procedure Rules and within budgetary provision, to award (and where necessary to subsequently vary) after consultation with the relevant Cabinet Member and the Service Director Corporate Commissioning and Procurement contracts in respect of the provision of care and support services to individuals arising out of delegations (2a) and (2b) and those functions delegated by virtue of Section 18 of the Care Act 2014 and the Contracting Out (Local Authorities Social Services Functions) (England) Order 2014.
- (6) To exercise powers of guardianship under Sections 7 and 23 of the Mental Health Act 1983 to:
 - (a) Require a person to reside at a place specified by the local authority or guardian
 - (b) Require a person to attend a specified place and time for the purposes of medical treatment, occupation, education or training
 - (c) Require access to the person to be given at any place where the person is residing to any registered medical practitioner, approved social worker or specified person
 - (d) Discharge any patient from guardianship.
 - (e) To undertake the role of nearest relative under the Mental Health Act 1983 when appointed to that role by a court or upon delegation to that role from a nearest relative.
- (7) To act as Deputy for Property and Affairs of a person subject to the Mental Health Capacity Act 2005.
- (8) To act as the Council's appointed Director of Children's Services under section 18 of the Children Act 2004.
- (9) To discharge the following functions under section 18(2) of the Children Act 2004:
 - (a) functions conferred on or exercisable by the Council in its capacity as a local education authority but not including:
 - i) functions with respect to higher and further education;

- ii) functions relating to the finance and government of locally funded further and higher education;
 - iii) functions relating to education for persons who have attained the age of 19 or in the case where there is an Education Health Care Plan in place the age of 25;
 - iv) functions relating to financial support to students over compulsory school age.
 - (b) functions conferred in or exercisable by the Council which are social services functions (within the meaning of the Local Authority Social Services Act 1970), so far as those functions related to children;
 - (c) functions conferred on the Council under sections 23C to 24D of the Children Act 1989 (functions relating to children leaving care)
 - (d) functions conferred on the Council under section 10 (co-operation to improve well-being), 11 (arrangements to safeguard and promote welfare), 12 (information databases) and 17 (children and young people's plan) of the Children Act 2004;
 - (e) any functions exercisable by the Council under section 75 of the National Health Services Act 2006 delegated to the Council on behalf of an NHS body (with the meaning of that section), so far as those functions relate to children.
- (10) Subject to any statutory requirement, to determine applications for scholarships, exhibitions, bursaries and other allowances by persons over compulsory school age in accordance with annual determinations made by the Council.
 - (11) To waive or amend discretionary charges for day-care, domiciliary services and residential care provision in appropriate cases where it is demonstrated that it may not be reasonably practicable to pay.
 - (12) In accordance with the Council's Contract Procedure Rules within budgetary provision to award (and where necessary to subsequently vary) contracts under existing framework or standing list arrangements in accordance with processes agreed with the Service Director, Corporate Commissioning and Procurement in respect of residential care placements, domiciliary care, day-care placements, day-care education placements and residential placements for children.
 - (13) To discharge the following functions under sections 390 and 392 of the Education Act 1996:
 - (a) to constitute a Standing Advisory Council on Religious Education (a SACRE);
 - (b) to appoint groups of persons as representative members on the SACRE;
 - and

(c) to remove SACRE members should they cease to be representative of the religion, denomination or associations which they were appointed to represent or they cease to be representative of the Local Authority.

(14) To authorise School Travel Plans.

2. Strategic Director, Housing, Environment and Healthy Communities

- (1) To determine those vehicles and items of plant and equipment that are no longer required, and to dispose of them in a manner which best meets the Council's interests, provided that the equipment which he/she considers to be in a safe condition is offered for sale to sports clubs in the Borough at a price he/she determines, subject to:
 - a. The sports clubs being approved by the Service Director, Public Health and Wellbeing; and
 - b. The equipment being sold 'as seen' without warranty as to its fitness for any purpose and without any responsibility on the Council's part for its current or future use for its maintenance.
- (2) To accept the best offers for plant, equipment and materials no longer required by the Council, or, following consultation with the Strategic Director, Resources and Digital, to write off such plant, equipment and materials.
- (3) To authorise, sign and serve all notices and take all necessary enforcement action, on behalf of the Council in respect of its responsibilities for matters relating to receptacles for the storage of waste.
- (4) To purchase vehicles, plant and equipment in accordance with the Council's Contract Procedure Rules to meet the Council's operational requirements, subject to budgetary provisions being available; to scrutiny by the Strategic Director, Resources and Digital; and a report being submitted for information to the Cabinet when a tender other than the lowest is accepted.
- (5) Following delegation by the Chief Executive to exercise the power provided in section 76-93 of the Anti Social Behaviour Crime and Policing Act 2014.
- (6) To exercise powers under the Anti Social Behaviour Crime and Policing Act 2014 in relation to community protection notices and orders and closure of premises associated with nuisance or annoyance.
- (7) To exercise powers given to local authorities under the Anti Social Behaviour Crime and Policing Act 2014 in relation to community protection orders, closure of premises notices and orders, public places protection orders and keeping dogs under control.
- (8) In accordance with Council policy, to act on behalf of the Council as local housing authority by determining, subject to any right of appeal which may apply,

and to the extent that the matter is not dealt with by the Gateshead Housing Company under the terms of the Management Agreement:

- a. All applications in connection with the housing register
 - b. Determinations as to homelessness
 - c. All matters relating to the allocation of the Council's dwellings
 - d. Adaptations to Council property for disabled persons and the issue of aids to disabled persons in each case within budgetary provision and subject to a report to the Cabinet where the estimated cost exceeds £50,000
 - e. Exercise by tenants of the right to buy, including approving valuations
- (9) To instruct the Strategic Director, Corporate Services and Governance to apply to the courts for appropriate remedies and order, including (but not restricted to) Anti-Social Behaviour Orders, to assist in ensuring community safety and proper estate management.
- (10) To make any changes or updates to the Local Development Scheme and to the Statement of Community Involvement, as and when required, following consultation with the Cabinet Members for Environment and Transport, Housing and Economy.
- (11) Following consultation with the Strategic Director, Resources and Digital, to acquire or dispose of land and/or property by sale, lease, license, consent, or any other legal estate or interest and to incur any necessary expenditure for those purposes, subject to the exceptions specified below:
- Transactions (other than acquisitions and disposals) in relation to interests in land which the Strategic Director, Housing, Environment and Healthy Communities considers to have significant implications in respect of any ward and/or portfolio, in which case the Strategic Director, Housing, Environment and Healthy Communities shall consult with the relevant portfolio holder and/or ward members before exercising the delegation above.
- (12) To settle the amount of any claim for compensation payable to the Council under any statutory provisions relating to the use of land not exceeding £100,000 and including but not limited to compensation payable under the provisions of the Water Industry Act 1991.
- (13) To settle the amount of any claim for compensation payable by the Council under any statutory provisions relating to the use of land not exceeding £100,000 and including but not limited to compensation properly payable in respect of depreciation to the value of property as a result of public works under the provisions of Part 1 of the Land Compensation Act 1973.

- (14) To authorise such measures as are considered necessary to ensure the protection of surplus property.
- (15) To negotiate and agree, in consultation with the Strategic Director, Resources and Digital, the rating assessment and valuation of all Council owned property.
- (16) To authorise the demolition of a Council asset, where a surplus declaration has been approved by the Cabinet and where budgetary provision exists.
- (17) To manage the Council's non-operational property and carry out all functions including new lettings, sub-lettings, lease renewals, rent reviews, assignments, landlord's consents, lease surrenders, terminations and other interests in land.
- (18) To deal with the review of a decision to include land on the list of assets of community value.

Service Director, Property, Assets and Traded Services

- (1) To carry out facilities management functions for operational properties under his/her control.
- (2) To deal with the nomination of assets for inclusion on the list of community value.
- (3) In respect of Council housing stock, to exercise the powers of the Council and to authorise persons to exercise such powers, under the Public Health Acts 1936 and 1961, Prevention of Damage by Pests Act 1949, Local Government (Miscellaneous Provisions) Act 1982 and Housing Act 2004 and any other legislation conferring such powers, in order to prevent:
 - (i) Damaged or defective premises (or parts thereof).
 - (ii) The deposit of noxious refuse.
 - (iii) Prejudice to health, danger to the public and/or detriment to the amenities of the neighbourhood.
 - (iv) Hazards (as defined by Housing Act 2004).

Service Director, Group Strategy and Residential Growth

- (1) Following delegation by the Chief Executive to exercise the power provided in section 76-93 of the Anti Social Behaviour Crime and Policing Act 2014.
- (2) To exercise powers under the Anti Social Behaviour Crime and Policing Act 2014 in relation to community protection notices and orders and closure of premises associated with nuisance or annoyance.
- (3) To exercise powers given to local authorities under the Anti Social Behaviour Crime and Policing Act 2014 in relation to community protection orders, closure of premises notices and orders, public places protection orders and keeping dogs under control.

- (4) To exercise the powers of the Council and to authorise officers under his/her control to exercise such powers under Part 4 of the Redress Schemes for Lettings Agency Work and Property Management Work (requirement to belong to a scheme etc.)(England) Order 2014 to enforce any breach of the requirement to belong to a scheme as is necessary.
- (5) To exercise the powers of the Council to ensure that landlords meet their obligations under the Landlord and Tenant Act 1985.
- (6) To exercise the powers of the Council and to authorise persons to exercise such powers, under the Public Health Acts 1936 and 1961, Prevention of Damage by Pests Act 1949, Local Government (Miscellaneous Provisions) Act 1982 and Housing Act 2004 and any other legislation conferring such powers, in order to prevent:
 - (i) Damaged or defective premises (or parts thereof).
 - (ii) The deposit of noxious refuse.
 - (i) Prejudice to health, danger to the public and/or detriment to the amenities of the neighbourhood.
 - (ii) Hazards (as defined by Housing Act 2004).
- (7) To authorise, sign and serve notices and take all necessary enforcement action under section 77 of the Criminal Justice and Public Order Act 1994.
- (8) To issue mandatory licenses under Part 2 of the Housing Act 2004.
- (9) To implement the provisions of the Housing and Planning Act 2016 that seek to tackle rogue landlords and property agents who knowingly rent out unsafe and sub-standard accommodation.
- (10) To implement the provisions of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, and the Licensing of Housing in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 in Gateshead.
- (11) To act on behalf of the Council in relation to the Council's duties to review and address homelessness.

Service Director, Highways and Waste

- (1) To designate the appropriate officer as the Council's Traffic Manager under the Traffic Management Act 2004.
- (2) To issue and deal with notices under the New Roads and Street Works Act 1999.
- (3) To grant licences, consents and approvals for apparatus in and under streets and excavations in streets.

- (4) To number houses and to name streets and to object in writing to any proposed street name.
- (5) To agree the terms of agreements under sections 38 and 278 of the Highways Act 1980.
- (6) To authorise the fixing of banners to bridges, and any events on bridges, in accordance with Council policy and subject to planning approval being obtained where necessary.
- (7) To authorise the adoption of highways under section 228 of the Highways Act 1980.
- (8) To make resolutions under section 205 (1) of the Highways Act 1980 and to carry out the necessary procedures under section 205 (3) of the Act.
- (9) To agree the adoption of highways constructed by the Council.
- (10) To act on behalf of the Council in connection with any power or duty imposed on the Council as traffic authority, and in particular:
 - (a) To propose and make temporary traffic regulation orders or notices under the Road Traffic Regulation Act 1984 or orders under the Town and Police Clauses Act.
 - (b) To propose, modify and make permanent or experimental traffic regulation orders or notices under the Road Traffic Regulation Act 1984.
 - (c) To respond to requests, on behalf of the Council, to a proposal by traffic authority to make permanent, temporary or experimental traffic regulation orders or notices on a highway situated within the Borough and to propose and make the relevant order where considered appropriate.
 - (d) To authorise the erection of temporary signs on the highway.
 - (e) To formally respond to HGV Operator Licence applications.
- (11) To give notice of any proposal to stop up or divert a highway under section 116 of and schedule 12 to the Highways Act 1980, and provided consent of the appropriate Parish Council (where applicable) has not been refused, to request the Strategic Director, Corporate Services and Governance to apply to the Magistrates' Court for a stopping up or diversion order.
- (12) To amend the Council's Blue Badge Protocol, as and when necessary, following consultation with the appropriate Cabinet Member, to ensure that it continues to reflect both current legislation and local needs and circumstances.

- (13) To determine appeals against any decision to refuse a request for a Blue Badge, in line with criteria and processes set out in the Council's Blue Badge Protocol.
- (14) To declare / designate sections of footway to be removed as footway under section 66(4) to the Highways Act 1980 and designate sections of footway as a cycle track in accordance with section 65(1) of the Highways 1980 Act.
- (15) To grant approvals for land drainage consents under section 23 of the Land Drainage Act 1991.
- (16) To agree the terms of adoption agreements for sustainable drainage systems under the Flood & Water Management Act 2010 and to authorise the adoption of those systems under that Act.
- (17) To enter into future agreements with the Secretary of State for Transport, under section 4 of the Highways Act 1980, in respect of the A1 improvement works.

Service Director, Locality Services and Housing Options

- (1) To accept leases and grant licenses of property (for which there is budgetary provision) necessary to meet the Council's obligations to provide temporary accommodation to homeless persons on an emergency basis and to those requiring supported housing.

3. Strategic Director, Resources and Digital

- (1) To arrange all borrowings, financial and investment, in line with the strategy and relevant principles approved by the Council.
- (2) To make all necessary banking arrangements on behalf of the Council.
- (3) To manage the Gateshead Collection Fund in accordance with statutory requirements, including the annual approval and certification of the NNDR1 form, prior to its submission to the Department for Communities and Local Government, setting out the local tax base for business properties for each forthcoming financial year.
- (4) To effect insurance cover against risks in accordance with Council policy and, where liability has been determined in accordance with the Insurance Protocol (as agreed by the Strategic Director and the Strategic Director, Corporate Services and Governance), to agree settlement of insurance claims for which legal proceedings have not been issued, up to the value of £10,000.
- (5) To write off, on the joint authority of the Strategic Director, Corporate Services and Governance, individual sums due to the Council up to the value of £500, if they are both satisfied the debt is irrecoverable or it is uneconomic to recover in view of the costs involved. A summary statement of amounts written off must be submitted to Cabinet at least annually.

- (6) To control (in conjunction with the Strategic Director, Corporate Services and Governance) the assessment and acquisition of Information and Communications Technology for the Council.
- (7) To institute and conduct court proceedings in person or by a duly authorised officer for the recovery of council taxes, non-domestic rates and any other monies for which the Council is accountable.
- (8) To maintain an adequate and effective internal audit of the Council's accounting records, control systems and all associated activities.
- (9) Following consultation with the Strategic Director, Housing, Environment and Healthy Communities to bank, borrow, sell or buy landfill allowances in order to minimise any costs and maximise any benefits to the Council. Periodic reports on such transactions will be reported to Cabinet.
- (10) To maintain an adequate and effective system for the identification and reporting of money laundering within the Council.
- (11) To make appropriate amendments to individual council tax bills in accordance with statutory requirements.
- (12) To settle claims by councillors without regard to legal liability for loss or damage to personal property (other than private cars) arising in the course of approved duties, where the amount does not exceed £200.
- (13) To approve any proposal for the Council to be designated as Accountable Body in any project, scheme or joint arrangement.
- (14) To vary the payment of £500,000 per annum into the Discretionary Housing Payments pot, in conjunction with the Strategic Director, Care, Wellbeing and Learning.
- (14) Following consultation with the Strategic Director, Corporate Services and Governance, to manage the overdraft position of Regent Funeral Services Ltd and to charge the company appropriately for this facility.
- (15) To administer the Discretionary Rate Relief Policy.

Service Director, Commercialisation and Improvement

- (1) To make arrangements for major and community events within agreed budgets.
- (2) To make arrangements to undertake activity which can generate income to meet agreed targets set by the annual budget process.
- (3) Following consultation with the Strategic Directors, Resources and Digital and Corporate Services and Governance, to implement flexible pricing arrangements to increase income, as appropriate.

4. Strategic Director, Corporate Services and Governance

- (1) To institute, defend or participate in any legal proceedings on behalf of the Council or authorised officer, in any court or tribunal.
- (2) To settle any action in any court or tribunal, or where the appropriate pre-action protocols have been engaged, in which the Council is a party, up to a value of £100,000, following consultation with the appropriate Strategic Director.
- (3) To authorise officers from Corporate Services and Governance to appear on the Council's behalf:
 - (i) To prosecute, defend or conduct proceedings in the Magistrates Courts (section 223 of the Local Government Act 1972).
 - (ii) In the recovery of possession of a house belonging to the Council and the recovery of sums claimed by the Council in respect of the occupation of such a house (section 60 of the County Courts Act 1984); and
 - (iii) In the County or High Court in relation to any claims brought by the Council and to defend any claims brought against the Council.
- (4) To authorise officers from Corporate Services and Governance to instruct or engage the services of external legal advisers.
- (5) To deal with applications for the use of the Council's Coat of Arms and emblem.
- (6) Following consultation with the Strategic Director, Resources and Digital and Strategic Director, Care, Wellbeing and Learning to approve the Gateshead Media Training Fund.
- (7) Following consultation with the appropriate Strategic Director, to issue a Certificate of Opinion, to postholders applying for exemption under the Local Government and Housing Act 1989.
- (8) To authorise attendance by a councillor at a particular meeting, or performance by a councillor of a particular duty, as qualifying for the payment of travel and subsistence allowance.
- (9) To arrange town twinning visits.
- (10) To authorise expenditure within the approved budget for civic hospitality.
- (11) To authorise attendance of councillors at training courses, seminars etc.
- (12) To appoint councillors as proxies to attend and vote at shareholders' meetings, and to give consent to written resolution, of any company of which the Council is a shareholder.

- (13) To make discretionary payments in accordance with sections 29, 32, 33 and 33J of the Land Compensation Act 1973 (Home Loss Payments).
- (14) To enter into contracts including framework agreements for the supply of works, goods and services subject to the Contract Procedure Rules. This power may be further delegated to the Service Director, Legal and Democratic Services.
- (15) Following consultation with the Strategic Director, Resources and Digital to accept funding under any government or other public body schemes.
- (16) To provide a response to representations as to why an Executive meeting, or parts of that meeting, should be held in private in accordance with Regulation 5 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- (17) To approve the appropriation of land within the Council.
- (18) To fulfil the role of appointed nominee of the Council for the purposes of taking out letters of administration of the estate of any person who is a creditor of the Council.

5. Director of Public Health

- (1) Responsibility, where applicable, for effective management of the Council's ring-fenced public health grant ensuring commissioned services meet the health needs of the population, are cost effective and that monitoring returns are accurate and timely.
- (2) For the avoidance of doubt nothing herein precludes or delimits the exercise by the Director of Public Health in appropriate circumstances of such concurrent non-executive delegations as he/she may exercise under the terms of this Constitution.
- (3) To select and maintain, subject to periodic review, an approved list of primary health care providers to deliver such public health services as he/she may from time to time determine and to award contracts from that list on the basis of an appropriate selection process and the evaluation of all relevant considerations; such authority is to be exercisable, following consultation with the Cabinet Member for Health, the Strategic Directors for Corporate Services and Governance and Resources and Digital and the Service Director, Corporate Commissioning and Procurement".
- (4) To order books and other materials within budgetary control.
- (5) To engage artists to a maximum cost, inclusive of expenses, of £10,000; engagements in excess of £10,000 are subject to consultation with the Strategic Director, Corporate Services and Governance with a view to drawing up an appropriate contract.

- (6) To arrange sales of surplus book stock and audio visual stock.

6. Strategic Director, Economy, Innovation and Growth

- (1) To make any changes or updates to the Local Development Scheme and to the Statement of Community Involvement, as and when required, following consultation with the Cabinet Members for Environment and Transport, Housing and Economy.
- (2) Following consultation with the Strategic Director, Resources and Digital, to acquire or dispose of land and/or property by sale, lease, license, consent, or any other legal estate or interest and to incur any necessary expenditure for those purposes, subject to the exceptions specified below:
 - (a) Acquisitions and disposals in relation to interests in land which the Strategic Director, Economy, Innovation and Growth considers to have significant implications in respect of any ward and/or portfolio, in which case the Strategic Director, Corporate Services and Governance shall consult with the relevant portfolio holder and/or ward members before exercising the delegation above.
 - (b) Acquisitions and disposals in relation to interests in land in respect of which the price or premium exceeds £500,000 or, in the case of leases, the sum of the premium and the cumulative rent over the term of the lease exceeds £1,000,000.
 - (c) Disposals of land for less than the best consideration that can reasonably be obtained pursuant to the Local Government Act 1972 general disposal consent (England) 2003 or any successor consent issued by the Secretary of State under sections 123(2), 127(2) and 128(1) of the Local Government Act 1972.
 - (d) Acquisitions, disposals or other transactions in relation to interests in land in respect of which the Strategic Director, Corporate Services and Governance considers it appropriate that a decision should be made by Cabinet.

Service Director, Business, Employment and Skills

- (1) In accordance with agreed procedures and eligibility criteria, in consultation with the Service Director Customer Experience and Digital, to approve applications for financial assistance to businesses, or individual residents of the Borough seeking employment, training or educational opportunities, in the following categories:
 - (a) Financial assistance grants
 - (b) Wage subsidy

- (2) To approve financial assistance in the form of occupier incentives to business centre occupiers or prospective occupiers and also to award financial assistance to enterprises participating in business support programmes.
- (3) To approve Community Led Local Development grant awards, following consultation with the Cabinet Member for Economy, following approval by the Local Action Group.

Service Director, Climate Change, Compliance, Planning and Transport

- (1) To pass or reject plans deposited under the Building Regulations 1991 (except where the plans deposited are in connection with a relaxation of regulations).
- (2) To inspect, pass or reject work to which building regulations apply and to service enforcement notices where necessary.
- (3) To accept or reject:
 - (iii) building notices submitted under the regulations;
 - (iv) initial and final certificates supplied by an approved inspector
- (4) To authorise, serve and enforce notices under sections 36, 71, 72, 74, 77, 78 and 81 of the Building Act 1984 and section 219 of the Highways Act 1980.
- (5) To exercise the powers of the Council, and to authorise persons to exercise such powers, under the Highways Act 1980, the Town and Country Planning Act 1990 and any other legislation conferring such powers, in order to prevent or remove obstructions to the highway and particular:
 - (i) to remove or obliterate placards and posters
 - (ii) to remove unauthorised signs
 - (iii) to remove advertisement trailers
 - (iv) to take action in respect of the display of goods, trading or the repair of cars
 - (v) to remove material obstructing the highway
 - (vi) to take action in respect of caravans or skips in the highway
 - (vii) to prevent damage to grass verges and to the highway in general
 - (viii) to deal with projections over the highway, encroachment of walls, fences, gates or hedges onto the highway or the discharge of water or any other thing onto the highway.
- (6) In accordance with agreed procedures and eligibility criteria, approve the award of grants under the Townscape Heritage Initiative.
- (7) To authorise, sign and serve all notices and take all necessary enforcement action under sections 59, 76 and 79 of the Building Act 1984.
- (8) To make arrangements to undertake activity which can generate income to meet agreed targets set by the annual budget process.

- (9) Following consultation with the Strategic Directors, Resources and Digital and Corporate Services and Governance, to recommend to the Strategic Director, Economy, Innovation and Growth, to implement flexible pricing arrangements to increase income, as appropriate.
- (10) To agree increases in hackney carriage fares in accordance with the Council's agreed formula.
- (11) To secure the removal of obstructions in streets; and to take action to secure the safety of dangerous excavations
- (12) For the purposes of the General Safety Certificate issued under the Safety at Sports Grounds Act 1975, to give approval to organised entertainments at Gateshead International Stadium.

PART 2 – GENERAL DELEGATIONS TO MANAGERS

In this part, unless otherwise stated, the term ‘manager’ includes:

- a) The Chief Executive
- b) A Strategic Director
- c) A Service Director (including the Deputy Strategic Director of Children, Adults and Families)
- d) Any employee authorised in writing by the Chief Executive to exercise a particular function

Subject to matters delegated to an individual employee under Part 1 of this schedule, a manager may exercise the following delegated powers:

(1) Tenders

A manager may:

- (a) Accept tenders, place order, for works, supplies and services up to a value equivalent to the tendering thresholds specified in the European Procurement Directives, subject to compliance with:
 - (i) Contract Procedure Rules;
 - (ii) The Council’s Corporate Commissioning and Procurement Strategy;
 - (iii) Any requirements of the Strategic Director, Resources and Digital as to the need for consultation before contracts above a specified value are entered into;
 - (iv) The requirements of the Access to Information Rules as to the inclusion of key decisions in the schedule of decisions;
 - (v) The Council’s Corporate Procurement Strategy;
 - (vi) The Council’s policy on the provision of transport;
 - (vii) The requirement that no construction (building or highways related) maintenance works are undertaken without the agreement of the Strategic Director, Housing, Environment and Healthy Communities or the Strategic Director, Corporate Services and Governance
 - (viii) The Council’s policy on the commissioning of in house services
- (b) Nominate named suppliers and sub-contractors where contracts provide for this;
- (c) Purchase works, supplies or services through a framework arrangement entered into under the Council’s Contract Procedure Rules
- (d) Prepare and submit tenders to other bodies for the execution of functional work by the Council; where the tender is accepted, he/she must inform the Strategic Director, Corporate Services and Governance who will enter into a contract.

(2) Lands and Buildings

A manager in consultation with the Service Director, Property, Assets and Traded Services:

- (a) Manage land and buildings under his/her control, provided that in the case of non-residential property, the Strategic Director, Housing, Environment and Healthy Communities must be consulted on any proposal to create a lease, licence or other interest in a property.
- (b) Deal with applications for hiring or letting accommodation under his/her control, in accordance with a scheme approved by the Council.

(3) Collaboration Agreements

A manager may, subject to the agreement of the Strategic Director, Corporate Services and Governance and the Strategic Director, Resources and Digital, enter into a cooperation or collaboration agreement or memorandum of understanding relevant to the Council's policies or functions.

(4) General

A manager may:

- (a) Act on behalf of the Council in accordance with:
 - (i) Legal requirements
 - (ii) The Council's policy framework
 - (iii) The Articles of the Constitution, Rules of Procedure and Codes of Practice and Protocols (whether or not incorporated in this constitution)
- (b) Serve, receive and act upon notices; give or refuse consents; issue determinations; apply for permissions; make orders; grant licences; request the Strategic Director, Corporate Services and Governance to take legal action or take any other appropriate action to:
 - (i) Safeguard the Council's interests;
 - (ii) Prevent or mitigate harm or inconvenience to persons, property or the environment; or
 - (iii) Exercise any discretionary power or comply with any duty of the Council;
- (c) Subject to the agreement of the Strategic Director, Resources and Digital, submit expression of interest and bids to Government departments or other public bodies for funding under specific enactments or Government schemes; the full bid to be agreed by Cabinet where the value of the bid exceeds £250,000;

- (d) Authorise other employees under his/her control to act on his/her behalf or in accordance with statutory powers; and
- (e) Where it is impracticable to obtain authorisation from the body exercising the function and subject to the action being reported (for information) to the next convenient meeting of that body, take necessary urgent action, within legal powers, in respect of matters otherwise reserved to Cabinet.

PART 4 - RULES OF PROCEDURE

COUNCIL PROCEDURE RULES

1. Annual Meeting of the Council

- 1.1 The annual meeting of the Council will held be on the second Friday following the day of municipal elections; or in a year where there are no municipal elections, on the second Friday in May. This day may be changed by the Council.
- 1.2 The business of the annual meeting will be:
- (i) to elect a Mayor and Deputy Mayor
 - (ii) to appoint the Leader
 - (iii) To decide the allocation of seats on committees of the Council, Overview and Scrutiny Committees, the Audit and Standards Committee and other relevant bodies in accordance with political balance Rules;
 - (iv) To appoint councillors to committees of the Council, Overview and Scrutiny Committees, the Audit and Standards Committee and other bodies to which the Council makes appointments;
 - (v) To appoint the Chairs and Vice-Chairs of committees of the Council, Overview and Scrutiny Committees and the Audit and Standards Committee.

2. Ordinary Meetings of the Council

- 2.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council from time to time. Meetings will begin at 2.30pm unless the Council decides otherwise.
- 2.2 The business at ordinary meetings is set out as below. It will be taken in the order shown, unless the Mayor decides otherwise or the Council resolves to change the order:
- (i) Minutes of the last meeting;
 - (ii) Official Announcements;
 - (iii) Outside speakers (if any);
 - (iv) Appointment of members of Council bodies and representatives to serve on other bodies to which councillors are appointed by the Council;
 - (v) Petitions;
 - (vi) Questions from Members of the Public;
 - (vii) Reports from Overview and Scrutiny Committees and the Audit and Standards Committee;
 - (viii) Any business remaining from the last meeting;
 - (ix) Reports on matters to be determined by the Council, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework;
 - (x) Report from the Leader and the Cabinet on matters relating to their portfolios;
 - (xi) Notices of Motion; and
 - (xii) Questions

2.3 When a report from the Chief Executive or any other officer appears on the agenda, the Leader or another Cabinet member may give written notice to the Chief Executive that he/she intends to move a motion relating to the report at the Council meeting. The Chief Executive will then either include the text of the motion in the agenda or, if that is not practicable, circulate it to all members of the Council as soon as possible.

2.4 The Leader (or other Cabinet member) may subsequently amend his/her motion without notice. The Chief Executive will then circulate the amended text to all members of the Council, provided it is practicable to do so.

3. **Extraordinary Meetings**

3.1 The Chief Executive may call a meeting of the Council other than an ordinary meeting, and those listed below may request him/her in writing to do so:

- (i) The Council by resolution
- (ii) The Mayor
- (iii) The Monitoring Officer
- (iv) Any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition

3.2 No item of business may be transacted at an extraordinary meeting except the business specified on the agenda.

3.3 The minutes of a Council meeting need not be signed at the next meeting if that is an extraordinary meeting.

4. **Notice of Meeting**

4.1 Unless the Council decides otherwise, meetings of the Council will be held at the Civic Centre.

4.2 The Chief Executive will give notice to the public of the time and place of Council meetings in accordance with Access to Information Rules.

4.3 The Chief Executive will prepare an agenda for each Council meeting and send it to every member of the Council at least six clear days before the meeting. This does not prevent further items of business being added to the agenda or extraordinary meetings being called at shorter notice, provided statutory requirements are met.

5. **Chair of Meeting**

5.1 If the Mayor is absent from the meeting, the Deputy Mayor will preside. If both the Mayor and Deputy Mayor are absent, the councillors present will choose one of their number to preside.

5.2 Any power or duty of the Mayor relating to the conduct of a meeting may be exercised by the person presiding at the meeting.

6. **Quorum**

6.1 If during any meeting the Mayor, after counting the number of councillors present, declares there is not a quorum (one quarter of the members of the Council) present, the meeting will be adjourned.

6.2 Any business not transacted will be adjourned to a time fixed by the Mayor at the time the meeting is adjourned. If he/she does not fix a time, it will be dealt with at the next ordinary meeting of the Council.

7. **Questions by Members of the Public**

7.1 At any ordinary meeting of the Council, any resident of the Borough may put a question to the Leader or a Cabinet member, provided that three clear days' notice in writing are given to the Chief Executive.

7.2 If the Chief Executive considers that the number of questions received is such that they cannot all be properly answered within 15 minutes, he/she will, after consulting with the Leader, select those which are to be put at the Council meeting. The remaining questions will be answered as soon as practicable after the Council meeting.

7.3 If the Chief Executive considers that it is not practicable to prepare a reply to a particular question in time for the next Council meeting, he/she will defer it to a future meeting and inform the questioner accordingly.

7.4 A resident of the Borough whose question is selected will be invited to attend the Council meeting. He/she may ask the question in person, or may request a friend, a member of the Council or a council officer to ask the question. If the resident is unable to attend, the question will be read out by the Chief Executive.

7.5 The Leader or Cabinet member to whom the question is put will reply orally. The questioner may then ask one supplementary question aimed at clarifying the original reply. (In the rest of this standing order the word 'question' includes a supplementary question).

7.6 Any question of fact not involving policy may be answered in writing by the councillor to whom it is put or referred to the appropriate officer for a written reply.

7.7 If in the Mayor's opinion the question is one which, for whatever reason, cannot properly be asked in an open meeting, he/she will disallow it and inform the resident of his/her decision.

7.8 Questions on development control and licensing applications will not be accepted.

7.9 The time allowed for questions by residents of the Borough will not exceed 15 minutes unless the Council agrees an extension. Any questions remaining unanswered after this period will be answered in writing after the meeting.

8. Questions by Members of the Council

8.1 A member of the Council may:

- (i) ask the Leader any question on the discharge of executive functions, or a member of the Cabinet in relation to matters falling within that councillor's portfolio or the chair of any body established by the Council in relation to that body's responsibilities if written notice has been given to the Chief Executive at least 48 hours before the meeting;
- (ii) ask the nominated member of the Tyne and Wear Fire and Rescue Authority any question on the business of the Authority, if at least seven working days written notice has been given to the Chief Executive.

8.2 A question to the Leader may be answered by the Leader himself/herself, or he/she may arrange for it to be answered by another Cabinet member.

8.3 After a question has been replied to, the councillor who asked the question may ask the respondent one supplementary question aimed at clarifying the original reply. (for the rest of this standing order the word 'question' includes a supplementary question).

8.4 Every question will be put and answered without discussion, and no resolution may be moved on a question or reply.

8.5 If in the Mayor's opinion the question is one which, for whatever reason, cannot properly be asked in an open meeting, he/she will disallow it and inform the councillor of his/her decision.

8.6 Any question of fact not involving policy may be answered in writing by the councillor to whom it is put or referred to the appropriate officer for a written answer.

8.7 The time allowed for asking and answering questions will not exceed thirty minutes unless the Council agrees an extension. Any questions remaining unanswered after this period will be answered in writing after the meeting.

9. Notice of Motion

9.1 A member of the Council may give notice of a motion for debate at a meeting of the Council. The notice of motion must be in writing, signed by the councillor giving the notice and three other councillors, and be delivered to the office of the Chief Executive at least six clear days before the Council meeting at which it is to be considered. The Chief Executive will enter it in a book open to inspection by any member of the Council.

- 9.2 A councillor who submits a notice of motion may subsequently withdraw it, or ask for it to be considered at a later meeting of the Council.
- 9.3 At the Council meeting, the motion may be moved by the councillor who gave notice of it, or by another councillor. But if it is not moved then, unless the Council agrees to defer it, it will be disallowed and may not be moved without fresh notice.
- 9.4 Motions must relate to Council business, or to matters which the Council can influence or which concern the Borough or its inhabitants. They must not attack individuals personally, or use offensive language. Any motion which would result in a material increase in the Council's expenditure, or reduction in its income or change to the Council's budget or policy framework, must propose that the issue is referred to Cabinet who will consider the matter and make such a recommendation to Council as they see fit.
- 9.5 If the Mayor considers that the notice of motion does not meet the requirements of Rule 9.4, he/she will rule it out of order, and the Chief Executive will so inform the councillor who gave notice of it.

10. **Petitions**

- 10.1 Any member of the Council or resident of the Borough may submit a petition to the Leader or to another Cabinet member nominated by the Leader, or to the Chief Executive or to a Strategic Director. A petition must be in proper language and relate to Council business or to a matter over which the Council has authority or affects the Borough.
- 10.2 All petitions will be dealt with under a system agreed by Cabinet. The system must provide, among other things, for consultation with the appropriate portfolio holders(s) and ward members, and for the progress of petitions to be reported regularly to meetings of the Cabinet.
- 10.3 Rule 10.2 does not apply to petitions relating to development control or licensing matters, or to any other matter which is dealt with under a statutory or formal procedure.
- 10.4 For the purpose of Rule 10.1, a petition may be submitted either by delivering it to the Civic Centre; presenting it at a meeting of the Council, or submitting it using the Council's online petition scheme, provided that forty-eight hours notice in writing is given to the Chief Executive.
- 10.5 In the case of petitions presented to the Council meeting by Council members, or residents of the Borough, the following Rules will apply:
- (i) the person presenting the petition may make a short statement explaining the subject matter of the petition but there will no debate on the matter;
 - (ii) where petitions are presented by residents, no more than one person may speak on any petition, and no one may present more than one petition at any meeting;

- (iii) the time allowed for presentation of the petitions will not exceed 15 minutes; any petition not presented at the end of this time will be handed to the Chief Executive and dealt with under Rule 10.2

10.6 Petitions with 2,000 or more signatures will be debated at the next ordinary meeting of the Council unless it is a petition asking for a senior council officer to give evidence at an Overview and Scrutiny Committee. If it is not possible for the petition to be discussed at the next ordinary meeting then consideration of it will take place at the following ordinary meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition in accordance with the Petition Scheme at this meeting.

PROCEDURE MATTERS

11. Motions which may be moved without Notice

11.1 These motions may be moved without notice:

- To appoint a chair
- Motions on the confirmation or accuracy of the minutes or order of business
- To reconsider a matter within six months
- To give consent of the Council where required by these Rules
- To withdraw a report
- Not to hear a councillor further or to require him/her to leave the meeting (Rule 21)
- Motions arising out of consideration of a report of a Council body or of the Chief Executive or any other officer
- The motions listed in Rule 12.4 whether or not moved whilst another motion is under debate

11.2 The Mayor may ask for any of these motions to be put in writing and handed to the Chief Executive as soon as it is seconded.

12. Motions and Amendments Generally

12.1 Subject to any other standing order, a motion or amendment may not be discussed or voted on, unless it has been proposed and seconded.

12.2 A proposer of a motion may, if the Council and seconder agree, alter the motion, and a proposer of an amendment may (with similar agreement) alter the amendment, provided the motion remains proper. The alteration must be put in writing and handed to the Chief Executive before the Council is asked to agree it.

12.3 A proposer of a motion or of an amendment may, if the Council and the seconder agree, withdraw it. If the Council gives consent, which will be granted or refused without discussion, no other member may speak on it.

12.4 When a motion is under debate, no other motion may be moved except:

- (i) to amend the motion
- (ii) to adjourn to the next meeting
- (iii) to adjourn to the next debate
- (iv) to proceed to the next business
- (v) that the proposition be put to Council
- (vi) not hear a councillor further
- (vii) to require a councillor to leave the meeting
- (viii) to refer the subject of the debate to another body of the Council
- (ix) to extend the time limit for speeches
- (x) to exclude the public
- (xi) to suspend a rule
- (xii) to seek agreement to alter or withdraw a motion or amendment

13. **Motions to remove the Leader**

13.1 The following will apply to motions to remove the Leader:

- (i) a motion to remove the Leader can only be moved where the notice of motion is signed by at least 10 councillors;
- (ii) in order for such a motion to be carried it must have the support of at least two thirds of those councillors voting and present at the Council meeting; and
- (iii) a motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

14. **When a councillor may speak again**

14.1 A councillor who has spoken on any motion may not speak again during the debate except:

- i. to exercise his/her right of reply (Rule 15)
- ii. to make a point of order or personal explanation (Rule 16)
- iii. to alter or withdraw a motion or amendment (Rule 12)
- iv. to propose or second any of the motions referred to in Rule 12.4
- v. to second or to speak once on an amendment moved by another councillor
- vi. If the motion has been amended since he/she last spoke, to move a further amendment
- vii. If his/her first speech was on an amendment moved by another councillor, to speak on the main issue after the amendment has been disposed of
- viii. if his/her speech was confined to formally seconding, without comment, the motion or amendment under discussion

15. **Right of Reply**

15.1 The proposer of the motion has the right to reply:

- (i) at the close of the debate on the motion
- (ii) at the close of the debate on an amendment to the motion
- (iii) before a motion to proceed to next business or to the like effect (Rule 18) or a motion to refer to another body of the Council
- (iv) after the closure is carried out (Rule 18)

15.2 The proposer of an amendment to a motion does not have the right of reply.

15.3 The right of reply extends only to answering previous speakers to whom the councillor has not had the opportunity of replying, and does not allow the introduction of new matters.

15.4 Once the right of reply has been exercised, the motion or amendment under discussion will be put to the vote immediately.

16. **Points of Order and Explanations**

16.1 A councillor may rise on a point of order or in personal explanation. If the Mayor consents, the councillor must immediately make his/her point of order or personal explanation.

16.2 A personal explanation must be confined to a material part of a previous speech by the councillor at the same meeting which may have been misunderstood.

17. **Amendments**

17.1 The Council must dispose of every amendment before another can be moved.

17.2 If an amendment is rejected, a further amendment may be moved on the original motion but not if it has the same effect as the rejected amendment.

17.3 If an amendment is carried, a further amendment may be moved on the substantive motion.

17.4 All amendments must be relevant to the motion.

17.5 The Mayor may require an amendment to be put in writing and handed to the Chief Executive as soon as it is seconded.

17.6 Where a motion appears on the agenda, no amendment to it may be moved unless written notice of the amendment, signed by two councillors, is submitted to the Chief Executive no later than 10.00am on the day before the Council meeting.

This does not apply if the Council consents to the moving of the amendment or in the circumstances described in Rule 2.4.

18. **Next Business**

18.1 At the end of another councillors' speech, a councillor may move:

- That the Council proceeds to the next business (or adjourns, if there is no other business)
- That the debate is adjourned to another occasion
- That the motion is put to the vote

The Mayor will not allow any of these motions if he/she considers that the matter has not been sufficiently discussed. Otherwise, the Mayor will put the motion to the vote without discussion, once the mover of the original motion has exercised the Right of Reply (Rule 15) if he/she chooses to do so.

19. Rescinding Previous Resolutions

- 19.1 No motion may be put which would rescind a resolution passed in the last six months, or would have the same effect as one rejected in the last six months, unless a motion for leave to reconsider is moved and a majority obtained. In this case, the Chief Executive will include the motion in the agenda for the next ordinary meeting of the Council.
- 19.2 When any motion to which this Rule applies has been dealt with, no councillor may propose a similar motion for a further six months.
- 19.3 This rule does not apply to a motion moved whilst the Council has before it a relevant report or recommendation of a Council body.

20. Voting

- 20.1 The Mayor will decide the method of voting unless a particular method is required by law. A councillor is only entitled to vote if he/she is present in the Council Chamber when the proposition is put from the Chair.
- 20.2 After a proposition is put from the Chair, but before the vote is taken, any ten councillors may stand and ask for a recorded vote. The Chief Executive will then record in the minutes of the meeting how each councillor cast his/her vote. This record will be available to councillors of the Council and the press.
- 20.3 A councillor may wish to have his/her vote for or against a question (or his/her abstention) recorded in the minutes of a body by making a request immediately after the vote. The councillor must stand and announce his/her name and intention.
- 20.4 A recorded vote will be taken at a meeting of the Council on business to approve the budget or set council tax and the minutes of that meeting will record the names of the councillors who voted for the decision or against the decision or who abstained from voting.

21. Conduct of Councillors

- 21.1 With the exceptions specified in Rule 21.2, the mover of the motion or amendment may not speak for more than ten minutes, and no other councillor speak for more

than five minutes, unless the Council agrees otherwise. No discussion is allowed on a motion to extend the time limit.

- 21.2 There will be no time limit on the speech of the Leader (or his/her representative) when moving recommendations on the fixing of Council Tax for the Borough or when conducting the debate on the motion. The leader of the main opposition group (or his/her representative) will also be entitled to speak for an unlimited time on the motion.
- 21.3 A councillor may speak only on the matter under discussion or make a point of order or an explanation. He/she must not impute motives or use offensive expressions to or about any other councillor.
- 21.4 Whenever the Mayor rises during a debate a councillor then standing must resume his/her seat and the Council will be silent.
- 21.5 If a councillor, in the opinion of the Mayor expressed to the Council, misconducts himself/herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively by obstructing the business of the Council, or by repetition or unbecoming language in his/her speech, the Mayor may move not to hear the councillor further. This motion, if seconded, will be put without discussion.
- 21.6 If the councillor named continues his/her misconduct after a motion under the previous paragraph has been the carried the Mayor will either:
- (i) move “that the councillor named is to leave the meeting” (in which case the motion shall be put to the vote immediately); or
 - (ii) exercise his/her power under the next paragraph
- 21.7 If in the Mayor’s opinion misconduct or obstruction makes it impossible to transact business in a proper or orderly manner, he/she may, without question, suspend the meeting for up to 30 minutes and may also refer the matter to the Audit and Standards Committee. This power is additional to any other legal power the Mayor may have.

22. Non-Participation in Council Business

- 22.1 A councillor who has declared a prejudicial interest in a matter in accordance with paragraph 17 of the Code of Conduct for Councillors will leave the meeting whilst the matter is being discussed and where appropriate voted on.

23. Disturbance by members of the Public

- 23.1 If a member of the public interrupts the proceedings at any meeting, the Mayor may warn him/her. If he/she continues the interruption, the Mayor may order his/her removal from the Council Chamber.
- 23.2 In the case of general disturbance in any part of the Chamber open to the public, the Mayor may order that part to be closed.

23.3 In the case of misconduct or obstruction by a member of the public the Mayor has the same power of suspending the meeting as he/she has in the case of misconduct or obstruction by a councillor (Rule 21) and may also refer the matter to the Audit and Standards Committee.

24. Decision of the Mayor to be Final

24.1 The decision of the Mayor on all points of procedure and his/her interpretation of these Council Procedure Rules is final and not open to debate.

25. Suspension of Rules

25.1 Any of these Rules may be suspended by the Council except Rules 3.3 and 20.3.

APPLICATION OF RULES TO NON-EXECUTIVE BODIES

26. Application

26.1 These Rules apply to the various bodies established by the Council to discharge non-executive functions as listed in Annex 1A to Part 3 of this constitution.

27. Appointments

27.1 At every annual meeting, the Council will appoint the appropriate number of councillors to each of the bodies referred to in Rule 25.1

27.2 A member of a Council body may resign his/her membership by giving written notice to the Chief Executive. The Council may fill any vacancy arising through resignation or any other reason.

27.3 The terms of office of all members of Council bodies will expire at the annual meeting which follows their appointment, or earlier if the Council so determines. This does not prevent the Council, at any time, dissolving a body or altering its membership, subject to statutory requirements.

28. Chairs and Vice-Chairs

28.1 At the annual meeting, the Council will appoint the chairs and vice-chairs of the bodies referred to in Rule 25.1. Where the Council does not make an appointment, the body itself will appoint a chair and vice-chair at its first meeting after the annual meeting. Chairs and vice-chairs (who must be members of the Council unless the Council decides otherwise) will hold office from the time of their appointment until the next annual meeting, unless they are removed by the Council or resign.

28.2 If the Chair is absent from a meeting, the Vice-Chair will preside. If both the Chair and Vice-Chair are absent, the councillors present will choose one of their number to preside.

28.3 If the Chair arrives at a meeting, (or the Vice-Chair if the Chair is absent), after the starting time for the meeting, he/she will preside after any question under discussion on his/her arrival has been dealt with but not before then.

29. Proceedings

29.1 The quorum of a Council body is one third of its voting members, but cannot be less than two.

29.2 Any member of the Council may attend any meeting of a Council body of which he/she is not a member and with the Chairman's consent may speak (but not vote) on any matter. This right is subject to any Rules which regulate the conduct of any particular body. The Leader will always have the right to attend and speak at any Council body.

29.3 The person presiding at a meeting will determine how it is to be conducted, subject to any directions given by the Council, and to Rule 28.4 (which may not be suspended).

29.4 Any councillor may have his/her vote for or against a question (or his/her abstention) recorded in the minutes of a body by making a request immediately after the vote. The councillor must stand and announce his/her intention.

30. Meetings of Council Bodies

30.1 In each municipal year, the Council will agree any necessary programme of meetings for the Planning and Development Committee and Regulatory Committee and may agree a programme of meetings for any of the other bodies referred to in Rule 25.1.

30.2 Meetings of all Council bodies will be convened by the Chief Executive, after consultation with the Chair where the meeting is not in a programme agreed by the Council.

ACCESS TO INFORMATION RULES

1. SCOPE

- 1.1 These Rules apply to all meetings of the Council, Overview and Scrutiny Committees, the Audit and Standards Committee and Regulatory Committees and to public meetings of the Cabinet (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1 These Rules do not affect anymore specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

- 3.4 Members of the public may attend all meetings subject only to exceptions in these Rules.

4. NOTICES OF MEETINGS

- 4.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting in the Civic Centre.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda and reports will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

- 6.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars to indicate the nature of the items in the agenda; and
- (c) if the Strategic Director, Corporate Services and Governance sees fit, copies of any other documents supplied to councillors in connection with an item.

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

7. ACCESS TO MINUTES AND OTHER DOCUMENTS AFTER THE MEETING

- 7.1 The Council will make available copies of the following for six years after a meeting:
- (a) The minutes of the meeting or records of decisions taken, together with reasons, for all meetings of Cabinet excluding any part of the minutes if

proceedings when the meeting was not open to the public, or which disclose exempt or confidential information;

- (b) A summary of any proceedings not open to the public where the minutes would not provide a reasonably fair and coherent record;
- (c) The agenda for the meeting; and
- (d) Reports relating to items considered when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) or, in respect of executive reports, the advice of a political advisor.

In this Rule, 'proper officer' means the Chief Executive, or Strategic Director, who was primarily responsible for preparing the report in question.

8.2 Public inspection of background papers

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

9. SUMMARY OF THE PUBLIC'S RIGHTS

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre. These Rules will constitute the written summary.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – discretion to exclude the public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

10.2 Exempt Information – discretion to exclude the public

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- (b) Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within seven categories (subject to any condition):

	Category	Condition
1.	Information relating to any individual	The public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2.	Information which is likely to reveal the identity of an individual	The public interest in maintaining the exemption outweighs the public interest in disclosing the information
3.	Information relating to the financial or business affairs of any particular person (including the authority holding the information)	The public interest in maintaining the exemption outweighs the public interest in disclosing the information The information is not information required to be registered under the Companies Act, the Charities Act or certain other legislation. ‘Financial or business affairs’ includes contemplated, as well as past or current activities.

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

Note: None of the above information is exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

11.1 If the Strategic Director, Corporate Services and Governance thinks fit, the public will be excluded to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not be open to the public. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE CABINET

12.1 Rules 13 – 19 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Rules 1 – 11 unless Rule 14.7 applies.

12.2 If the Cabinet meets to discuss a key decision to be taken collectively, with an employee other than a political assistant present, within 28 days of the date according to the schedule of decisions by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 14.7 applies. This requirement does not include meetings who sole purpose is for officers to brief councillors.

12.3 A key decision is defined in Article 14 of this constitution.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

13.1 Subject to Rule 14.7, a key decision may not be taken unless:

- (a) notice of the matter in question has been given in the schedule of decisions (Rule 14);
- (b) At least five clear days have elapsed since the publication of the schedule of decisions; and
- (c) Where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. SCHEDULE OF DECISIONS

Responsibility for the Schedule of Decisions

14.1 The Democratic Services Manager, in Corporate Services and Governance, will coordinate and prepare the schedule of decisions.

Period of the Schedule of Decisions

14.2 The schedule of decisions will cover the period of 28 days prior to the decisions being made, which is the period of notice required by legislation.

Contents of the Schedule of Decisions

14.3 The schedule of decisions must cover the following:

- that a key decision is being made;
- the subject matter;
- the name of the decision maker and if Cabinet, the name of Cabinet members;
- the date of the decision;
- a list of relevant documents;
- where the documents can be accessed;
- that other documents may be submitted; and
- the procedure for requesting details of the documents if they became available.

14.4 The schedule will also cover information on private meetings (those where the public will be excluded for part of the meeting).

14.5 The schedule of decisions will be published as widely as possible. In particular, it will be:

- published on the Internet; and
- sent to every member of the Council.

14.6 As far as practicable, non-key Cabinet decisions will normally be included in the schedule of decisions on the same basis as key decisions even though this is not a legal requirement.

14.7 Where it is impracticable for the 28 day notice period to be complied with the Chair of Corporate Resources Overview and Scrutiny Committee, and in his absence the Mayor or Deputy Mayor, can give approval for the decision to be proceeded with.

15. RECORD OF DECISIONS

15.1 After any meeting of the Cabinet, whether held in public or private, the Strategic Director, Corporate Services and Governance will produce a record of every decision taken at that meeting as soon as practicable, normally within two working days. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

16. MEETINGS OF THE CABINET

17.1 Meetings where key or non-key decisions will be taken in public unless it is likely that exempt or confidential information would be disclosed.

17.2 A meeting may be held in private when the purpose of the meeting is:

- To consider a matter where (in accordance with the schedule of decisions) the decision is not likely to be taken within the next 28 days, and/or
- For Cabinet members to be briefed by officers where no decision is being made.

17.3 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees are entitled to attend any meeting of the Cabinet.

18. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS – COUNCIL MEMBERS

18.1 All councillors will be entitled to inspect any document (except those only available in draft form) which is in the possession or control of the Cabinet and contains material relating to any business to be transacted at a public meeting or to any key decision made by a manager, unless it contains exempt information falling within paragraphs 1,2,3 (insofar as the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) 4,5 and 7 of the categories of exempt information.

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

19. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS – OVERVIEW AND SCRUTINY COMMITTEES

19.1 Subject to Rule 19.2 below, an Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to any business transacted by the Cabinet or to any key decision made by a manager.

19.2 An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form; or
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

THE FREEDOM OF INFORMATION ACT 2000 – STATEMENT

1. The Freedom of Information Act is one of a number of national policies to modernise government and encourage more open and accountable decision making. The Act applies to all public authorities including councils, central government departments, the Police and Armed Forces, the National Health Service, schools and universities. It does not apply to private organisations unless they are contracted to provide public services on behalf of a public authority.
2. The Act, which came into full effect on 1 January 2005, places three main requirements on public authorities:
 - (i) to adopt and maintain a Publication Scheme, listing all the classes of information the authority currently publishes, or intends to publish in the future, with details of how the public can access published information;
 - (ii) to respond to any request for information not contained within the Publication Scheme. This includes a duty to confirm or deny the existence of the information requested. If the information does exist, to supply it within 20 working days, unless one of a limited number of exemptions applies. Public authorities must provide reasonable advice and assistance to people requesting information and can charge for satisfying the request, in line with fees regulations;
 - (iii) to comply with the Lord Chancellor's Code of Practice on Records Management. This sets out good practice for the creation, storage, access to and disposal of information.

What is a Publication Scheme?

3. A Publication Scheme is a document detailing the many different types of information held by the Council in clear and structured way. Information is classified by type, making it easier to find the information required.
4. The Council's publication scheme is available on the Council's website www.gateshead.gov.uk.

Information not listed in the Publication Scheme

5. People now have a general right to access to all information held by the Council. This right covers information recorded in any form and obtained from any source, not just documents published by the Council.
6. Access requests must be made in writing. Costs can be charged should photocopying and postage exceeds £10.
7. The Council must respond to requests within 20 working days:
 - Confirming whether any information is held
 - Enclosing a copy of all the information which can be released
 - Explaining the exemptions applying to any information withheld

Exceptions to the Right of Access

8. There are some exceptions to the right of access under the Freedom of Information Act and some information is restricted by other information. The Council can withhold information including details of legal proceedings, information provided in confidence or covered by the Data Protection Act 2018.
9. The Council does not have to provide information if the cost of locating and retrieving it is £450 or more, and can refuse requests from anyone repeatedly asking for the same or similar information.

Access to Personal Information

10. Personal information or data is covered by the Data Protection Act 2018. This Act gives you a general right of access to your own personal data. Access requests must be made in writing, with enough information to locate the data requested, and proof that you are the data subject.
11. Requests for personal data must be responded to within one month confirming:
 - A description of the personal data
 - Why the data is held
 - Who else the data may have been given to
 - A copy of the data
 - An explanation about any technical terms or abbreviations
 - Any information about the original source of the data
12. The Council can withhold some data if it refers to other people who have not yet consented to disclosure, if disclosure might cause serious harm to you or anyone else, or might prejudice crime prevention or court proceedings.
13. Questions about rights under the Freedom of Information Act 2000 or the Data Protection Act 2018 should be directed to the Council's Information Rights Officer or Data Protection Officer.

DATA PROTECTION STATEMENT

1. The Council may need to collect personal data to provide services requested by residents, as well as for statutory requirements including Council Tax and Electoral Registration. Personal data may also be used for prevention and detection of fraud.
2. The Council will keep personal data safe and secure, and will not share it with other organisations without consent, unless it is required by law to do so.

Data Protection Principles

3. The Act is based on six legally enforceable principles that organisations and individuals must apply when they process your personal data. The Act states that all personal data must:
 - Be processed fairly, lawfully and transparently
 - Only be obtained and processed for specified, explicit and lawful purposes
 - Be adequate, relevant for the purpose and limited to what is necessary
 - Be accurate and, where necessary, kept up to date
 - Not be kept longer than necessary
 - Be processed in a manner that ensures appropriate security of the data

The Act requires that the Council must be able to demonstrate compliance with the above principles.

What is personal data?

Personal data is any data which, on its own or referenced against other data held by the organisation, can be used to identify a living individual.

This includes all the obvious details the Council might hold about you like name, address, Council Tax reference number, rent payment records, etc. It might also include expressions of opinion about you and the Council's intentions towards you. Some data can be personal even if it refers to more than one individual, like joint tenancies, Council Tax assessment records, etc.

The Act recognises that some types of personal data require a more enhanced level of protection than others. There are extra rules for processing data about your racial or ethnic origin, religious or philosophical beliefs, trade union membership, party political opinions, sexuality (including sex life), health, or involvement in court proceedings. There are also extra rules for processing genetic or biometric data about you.

What does processing personal data mean?

Processing personal data includes collecting, storing, accessing, changing and destroying any information about you. The amount of personal data we have about you and how we process it depends on which council services you use.

Sometimes we collect personal data for one council service and need to use it to give you another service. We will always try to tell you if we share your personal data between different council services.

Who processes my personal data?

Council members and employees can access and process your personal data for their official council duties, but only the data needed for a specific purpose. They must not disclose your personal data to anyone else without your consent, unless they are legally obliged or permitted to do so.

If you make a complaint about Council services or sign a petition that is presented to the Council your personal data may be shared with your local Ward Councillors, Cabinet members and council employees working in the service concerned.

You can write and ask us to stop processing your personal data at any time. You must explain what processing you want us to stop and why. We must reply within one month to let you know what we have done about your request.

Can I see my personal data?

The Data Protection Act 2018 gives you a general right of access to personal data that relates to you. Access requests must include enough information to locate the data requested, and proof that you are the data subject may be requested.

Data controllers like the Council must respond within one month confirming:

- a description of the personal data
- why the data is held
- who else the data might have been given to
- a copy of the data
- an explanation of any technical terms or abbreviations
- any information about the original source of the data

We can withhold some data if it refers to other people who have not consented to disclosure, if disclosure might cause serious harm to you or anyone else or might prejudice crime prevention or court proceedings. Even if we cannot provide you with copies of the data, we will confirm what type of data we hold and why we hold it.

Can I see personal data about other people?

You only have the right to access your own personal data. You do not have the right to access personal data about other members of your family, your friends or your neighbours unless

- you are a parent asking to see your child's education or social services records
- you have written proof of your authority to act on behalf of someone else

Even if you meet these requirements we may need to ask you for more information before we reply or refuse access because of our duty to keep personal data confidential.

Obtaining personal data from Council sources for an unauthorised purpose or unauthorised disclosure to a third party are offences under the Act.

How can I be sure my data is accurate?

The best way to be sure is to let us know about any changes in your circumstances that might affect the services we provide to you.

Under the Data Protection Act 2018, the Council must try to keep your personal data accurate and up to date. If you think that your personal data is incorrect you can write telling us why and asking us to correct the data. We must reply within one month to let you know what we have done about your request.

If we agree that your personal data is incorrect we will put this right. If we do not agree we will add a note to your file that you disagree with our version of the data.

We can also add a note to any file containing data about you (including opinions or accusations) received from a third party if you think it is incorrect or inaccurate.

BUDGET AND POLICY FRAMEWORK RULES

Responsibilities of the Council and the Cabinet

- 1.1 The Council will be responsible for:
 - The adoption of its budget and policy framework as set out in Article 4;
 - Agreeing amendments to the budget and policy framework.
- 1.2 The Cabinet will be responsible for:
 - Developing proposals for the budget and policy framework, consulting on these proposals and submitting them to the Council;
 - Recommending amendments to the budget and policy framework;
 - Implementing the budget and policy framework by taking decisions that fall within it;
 - Monitoring its implementation.
- 1.3 The Council will not consider any proposal which would constitute an addition or an amendment to the budget or policy framework unless it has before it a report from the Cabinet on the matter.

Process for developing the framework

- 2.1 The Cabinet will publish:
 - Its timetable for making proposals to the Council for the content of any plan, strategy or budget that forms part of the budget and policy framework;
 - Details of arrangements for consultation after the Cabinet has published its initial proposals.
- 2.2 Consultation will be appropriate to the subject matter of the plan or budget concerned, but the Cabinet will normally seek the views of:
 - Organisations within the Borough who have an interest in the matter
 - Ward councillors for any ward likely to be significantly affected by the proposal
 - The relevant advisory groups
- 2.3 An Overview and Scrutiny Committee may submit comments to the Cabinet on any proposal relating to the budget and policy framework that falls within its remit. In any event, the Cabinet will take account of comments previously made to it by an Overview and Scrutiny Committee, arising out of the review of decisions or performance management.
- 2.4 A reasonable time will be allowed for consultation. Normally this will not be less than four weeks, but this may be reduced in cases of urgency.
- 2.5 At the end of the consultation period, the Cabinet will draw up firm proposals which will be included in a report to the Council. The report will summarise the responses made by consultees (whether or not those responses were solicited) together with the Cabinet's observations where appropriate, the Strategic Director, Corporate

Services and Governance will arrange for the reports to be included in the Council agenda.

- 2.6 All plans, programmes and strategies which constitute the Council's policy framework should generally include as much detail as reasonably practicable.

Procedure for approving the Cabinet's proposals

- 3.1 The following procedure applies when the Cabinet has submitted any proposal to the Council relating to a plan, strategy or budget that forms part of the budget and policy framework, The procedure reflects the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001.
- 3.2 If the Council agrees the Cabinet's proposals they will take effect immediately.
- 3.3 If the Council wishes to amend or reject the Cabinet's proposals, it can only make an 'in principle' decision to do so. If the amendment proposed by the Council is a minor one, such as the correction of an error or amendment of a point of detail which does not affect the substance of the proposals, the Leader may immediately indicate acceptance of the amendment, in which case the Cabinet's proposals will take effect immediately. In any other case, the Council will refer the proposals back to Cabinet for reconsideration with its comments, specifying a period of at least five working days within which this reconsideration must take place.
- 3.4 On being required by the Council to reconsider its proposals, the Cabinet may:
- Accept the Council's 'in principle' decision, in which case the Cabinet's proposals (as amended) take effect immediately, or
 - Decide to make a further submission. At that meeting, the Council will make a decision on the matter which will be final and have immediate effect.

Decisions outside the budget or policy framework

- 4.1 The Cabinet, managers or any joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. Decisions which are contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, may only be taken by the Council, subject to 5 below.

Urgent decisions outside the budget or policy framework

- 5.1 The Cabinet, managers or any joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary or not wholly in accordance with the budget approved by full Council, if the decision is a matter of urgency. However the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) if the Chair of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Overview and Scrutiny's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Overview and Scrutiny Committee, the consent of the Mayor, or in his/her absence, the Deputy Mayor will be sufficient.

- 5.2 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

Virement

- 6.1 Approval of virement shall be in accordance with the following provisions:

- All “policy” virement requests which involve changes in resources allocated to specific Council policy areas will require formal approval of Council.
- All “administrative” virements up to a value of £250,000 shall be approved by the Strategic Director, Resources and Digital in consultation with the relevant Service Directors under Non Executive delegations. Administrative can be defined as those virements where there are no changes to service delivery or Council policy. An example may include a service re-structure or where responsibility for a service delivery area is moving but essentially the same service is still being delivered.
- All administrative virements above £250,000 are a significant decision and will require Cabinet approval.
- All virements from contingencies shall be approved by the Strategic Director, Resources and Digital in accordance with Non Executive delegations.

In-year changes to policy framework

- 7.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, managers or any joint arrangements discharging functions must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except where it is necessary to make an immediate change to comply with the law or ministerial direction. In such cases the matter will be reported to the next available Council meeting.

CABINET PROCEDURE RULES

1. Operation of Cabinet

1.1 Responsibility for executive decisions

Executive functions will be exercised by the Cabinet collectively except where the matter is dealt with under joint arrangements or delegated to a manager under part 3, schedule 5 of this constitution. This does not preclude the Cabinet from delegating to a manager the authority to make a decision on any matter for which it is responsible.

1.2 The Council's scheme of delegation and executive functions

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7, and set out in part 3 of this constitution.

1.3 Conflicts of Interest

- (a) Where the Leader and/or member(s) of the Cabinet has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Councillors in part 5 of this constitution.
- (b) If the exercise of an executive function has been delegated to a manager, and should a conflict arise, then the matter will be referred to the Cabinet for decision

2. Conduct of Cabinet Meetings

2.1 Presiding at meetings

If the Leader is present, he/she will preside. In his/her absence the Deputy Leader will preside.

2.2 Calling Cabinet meetings

The Leader:

- Will decide on the programme of meetings of the Cabinet, following which the Chief Executive will inform all members of the Cabinet, and will arrange for the programme to be published in accordance with arrangements from time to time.
- May call additional meetings at the Civic Centre unless the Leader has agreed that it should meet at another location.

2.3 Access to Information

The Access to Information Rules in part 4 of this constitution set out the requirements for access to agendas for Cabinet meetings, background papers and so on.

2.4 Quorum

The quorum for a meeting of the Cabinet shall be one third of its members including the Leader (or Deputy Leader if the Leader is not present).

2.5 Cabinet members' ward responsibilities

While it is recognised that Cabinet members have the same ward responsibilities as every other member of the Council, they should consider the interests of all wards when in Cabinet meetings.

2.6 Attendance by non-Cabinet members

A non-Cabinet member attending a public meeting of the Cabinet may, with the consent of the person presiding, speak (but not vote) on any matter.

These rights extend to that part of the meeting where confidential or exempt business is being discussed, except that in exceptional circumstances, and having taken the advice of the Monitoring Officer, non-Cabinet members may be excluded where this appears proper.

2.7 Non-Participation in Cabinet Business

A councillor who has declared a prejudicial interest in a matter in accordance with paragraph 17 of the Code of Conduct for Councillors will leave the meeting whilst the matter is being discussed and where appropriate voted on.

2.8 Procedure generally

Any matter relating to the procedure for Cabinet meetings that is not covered by the law or by this constitution will be determined by the Leader, having taken the advice of the Chief Executive or the Strategic Director, Corporate Services and Governance.

3. Advice and Consultation

3.1 The Cabinet will draw on the advice and experience of non-Cabinet members of the Council and will involve them constructively in the process of policy formulation. To this end, the Cabinet will establish a series of Advisory Groups consisting of non-Cabinet (including opposition) members.

3.2 Structure and membership of Advisory Groups

- (i) The Cabinet will, initially establish the advisory groups set out in Annex 2A and appoint their members at the Cabinet's first meeting following the Annual Council meeting, taking into account the wishes of the political groups.

- (ii) The Cabinet may vary the number of councillors to be appointed to an advisory group and may also establish time-limited advisory groups.
- (iii) In general terms, the purpose of advisory groups is to enable the Cabinet to seek advice, in an informal setting, from a broad group of Council members before a firm line is fixed. Meetings of advisory groups will be held in response to a request from the Cabinet for advice on a specific issue or issues; meetings should focus on discussing the issue and giving advice rather than arriving at a formal resolution.
- (iv) All members of the Council will be invited to attend meetings of the Corporate Resources and Policy Advisory Groups.
- (v) The advisory group system will be the primary means by which the Cabinet carries out consultation within the Council. In addition, the Cabinet may:
 - request advice from all councillors on issues where there are ward implications;
 - refer any matter to the appropriate Overview and Scrutiny committee for it to consider and report on;
 - consult with any councillor or members of the Council on any matter.

3.3 Strategic Housing Board

The Strategic Housing Board will advise the Cabinet and Council on a range of proposals relating to housing strategy, tackling homelessness, enabling independent living, promoting residential growth, policies relating to all housing sectors, and the contribution housing needs to make towards the Council's Thrive ambition and delivery of the Health and Wellbeing Strategy (see Annex 2B).

3.4 Consultation with the wider community

The Cabinet will carry out such consultation with the wider community, partner organisations, stakeholders and residents as it sees fit. The level of consultation should be appropriate to the nature of the matter under consideration.

Reports to the Cabinet, or from the Cabinet to the Council, should set out the details of consultation carried out both inside and outside the Council, and its outcome.

4. Register of Cabinet Members

- 4.1 A list of names, addresses and wards of Cabinet members is available from Democratic Services, Corporate Services and Governance.

ADVISORY GROUPS – STRUCTURE AND MEMBERSHIP

1. There will be two advisory groups based on corporate resources and policy areas, as follows:

Advisory Group	Membership
Corporate Resources	All members of the Council to be invited to attend meetings
Policy	All members of the Council to be invited to attend meetings

The Corporate Resources Advisory Group will be chaired by the Leader of the Council.

The Policy Advisory Group will be chaired by a councillor nominated by the Leader of the Council from the development pool.

2. Other advisory groups will be established as follows:

Advisory Group	Membership
Capacity Building Fund	7 (2 Cabinet, 5 non-Cabinet)
Honours Advisory Group	12 (4 Cabinet, 8 non-Cabinet)
Ward Liaison Groups (1 per ward)	3 (ward councillors)

Strategic Housing Board

The Council has established the Strategic Housing Board which is a formal advisory committee.

It will consider a range of proposals relating to housing strategy, tackling homelessness, enabling independent living, promoting residential growth, policies relating to all housing sectors, and the contribution housing needs to make towards the Council's Thrive ambition and delivery of the Health and Wellbeing Strategy.

Composition and Procedure

a) Membership

The Strategic Housing Board will consist of 21 members as follows:

- Fifteen councillors (including the Chair and Vice Chair)
- Chair of the Health and Wellbeing Board
- Chair of the Community Safety Partnership
- Three tenant representatives
- Three partner representatives.

The councillors are appointed by the Council.

The Council may appoint such other persons or representatives as it thinks appropriate having consulted the Strategic Housing Board.

The Strategic Housing Board may itself appoint such additional persons to be members of the Strategic Housing Board as it thinks appropriate.

b) Voting Rights

Each member of the Strategic Housing Board shall be entitled to vote at meetings.

The political balance rules will apply to the Strategic Housing Board.

c) Quorum

The quorum for a meeting of the Strategic Housing Board shall be one third of its members, no less than seven.

d) Frequency of Meetings

The Board shall meet on a bi-monthly basis or at such other times as the Strategic Housing Board shall determine.

e) Sub-committees of the Strategic Housing Board

The Strategic Housing Board may appoint one or more sub-committees to advise the Strategic Housing Board with regard to any matter relating to the discharge of its functions.

Role and Function

As a formal advisory Committee of the Council, the Strategic Housing Board will consider and make recommendations on a range of proposals relating to:

- a) Housing Strategy
- b) Residential and affordable housing development
- c) Area based and housing led regeneration proposals and plans
- d) Tackling homelessness, rough sleeping and specialist housing provision
- e) Independent living
- f) Ensuring regulatory and statutory compliance for the Council's homes
- g) The management and maintenance of the Council's homes
- h) Private sector housing
- i) Locality planning, sustainability and management
- j) Waste, environmental and community safety management
- k) Social inclusion and community development
- l) The tenant and wider community voice
- m) Housing related planning policies and guidance
- n) Partnership working with key stakeholders
- o) Bids, relevant funding and investment plans
- p) Housing's contribution to the delivery of the Health and Wellbeing Strategy and Thrive ambition

OVERVIEW AND SCRUTINY RULES

1. Principles

- 1.1 Overview and Scrutiny Committees (OSC) will exercise their functions and their statutory powers, in accordance with the principles and objectives set out in Article 6.

2. Number and Terms of Reference

- 2.1 The Council will have the Overview and Scrutiny committees and Sub-Committee as set out in Article 6. It will appoint a Chair and Vice-Chair and members of each Committee and Sub-Committee at the Annual Meeting. The Corporate Resources Overview and Scrutiny Committee will have two Vice-Chairs (who will not be from the same political group). The Council may vary the number of members at its discretion.
- 2.2 The terms of reference and membership of the Overview and Scrutiny Committees and Sub-Committees are set out more fully in the table at the end of these Rules.
- 2.3 Overview and Scrutiny Committees may set up informal working groups or committees to consider particular issues within their remit and report to the Committee.
- 2.4 All councillors, except members of the Cabinet, may be members of an Overview and Scrutiny Committee. However, no councillor may participate in scrutinising a decision in which he/she has been directly involved.
- 2.5 The Families OSC will include in its membership the following voting representatives:
- One Church of England Diocesan representative
 - One Roman Catholic Diocesan representative
 - Four parent governor representatives

When the Committee deals with matters which do not relate wholly or partly to education functions which are the responsibility of the Cabinet, these representatives may not vote on those matters, though they may stay in the meeting and speak.

- 2.6 The Housing, Environment and Healthy Communities OSC will include in its membership the following non-voting representatives:
- Four Housing Scrutiny Panel representatives
 - Two Housing Assurance Board representatives

When the Committee deals with matters which do not relate wholly or partly to housing functions which are the responsibility of the Cabinet, these representatives may stay in the meeting and speak.

- 2.7 The Council will consider from time to time whether other persons who are not members of the Cabinet should be co-opted to any OSC. Such persons will not have voting rights.

3. Meetings of Overview and Scrutiny Committees

- 3.1 The Council will determine annually a programme of ordinary meetings of Overview and Scrutiny Committees. Meetings will be held as nearly practicable on a six weekly frequency, not including May or August.
- 3.2 In addition, an extraordinary meeting of an OSC may be called by the Chair of the Committee giving written notice to the proper officer who will convene the meeting.
- 3.3 The quorum for an OSC will be one third of its voting members.
- 3.4 If the Chair of an OSC is absent from the meeting, the members present will choose one of the Vice-Chairs to preside, or if both Vice-Chairs are absent, they will choose one of their number to preside.

4. Work Programme

- 4.1 Each OSC will draw up a work programme based on the Cabinet's policy framework. The work programme will be agreed annually by the Council as part of the policy planning process. In drawing up work programmes, Committees will take account of the aims and objectives of the Scrutiny function as set out in Article 6.02. Paragraphs 5 – 15 of these Rules explain how OSCs will be expected to approach various elements of their task.
- 4.2 The work programme should have regard to:
- The Council's policy framework;
 - The resources available;
 - Time constraints;
 - The need for flexibility;
 - The interests of the local community;
 - The concerns of all members of the committee.
- 4.3 The OSCs will also respond, as soon as their work programme permits, to requests from the Council or Cabinet to review particular areas of Council activity.
- 4.4 Any member of an OSC or Sub-Committee is entitled to give notice in writing to the proper officer that he/she wishes an item relevant to the functions of the Committee, to be included on the agenda for, and discussed at, the next available meeting of

the Committee. On receipt of such a request, the proper officer will ensure that is included on the next available agenda.

4.5 Any member of the Council may refer to a relevant OSC, of which he or she is not a member, any local government matter which relates to the discharge of any function of the Council, or any crime and disorder matter which affects their ward or constituents as a Councillor Call for Action (S119 of the Local Government and Public Involvement in Health Act 2007, and S126 of the Police and Criminal Justice Act 2006). The procedure for calls for action is set out in the Council's protocol (Annex A of OSC Rules). Councillors may not refer matters relating to:

- Planning decisions
- Licensing decisions
- Individual complaints
- Matters where there is already statutory right to a review or appeal
- Matters which are vexatious, discriminatory, or which it would be unreasonable to raise at an OSC

5. **Policy Review and Development**

5.1 The role of the OSC in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Rules.

5.2 OSCs may make proposals to the Cabinet on matters which do not form part of the policy framework provided these matters are within their terms of reference.

6. **Performance Management**

6.1 OSCs will receive reports at six-monthly intervals relating to the performance of the services within their remit, and will make appropriate recommendations to Council.

7. **Schedule of Decisions**

7.1 An OSC may at any meeting, consider items in the Cabinet's schedule of decisions which fall within its remit, and may submit comments to the Cabinet.

8. **Scrutiny of Decisions and Action**

8.1 An OSC may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. However it will not normally review:

- Individual decisions of bodies exercising regulatory functions (development control, licensing, regulatory, appeals and related matters) and it will not act as an alternative to normal appeals procedures;
- Individual decisions taken more than 12 months prior to the date of the meeting of the Committee.

- 8.2 In discharging this function, an OSC may:
- (i) Review any relevant documentation (the rights of OSCs to documents are set out in the Access to Information Procedure Rules)
 - (ii) Subject to paragraphs 8.3 – 8.6, require member(s) of the Cabinet and/or officer(s) of the Council to attend before it to explain, in relation to matters within their remit
 - Any particular decision or series of decisions, and/or
 - The extent to which the action taken implement Council policy
- 8.3 It is the duty of a member of the Cabinet or an officer to attend if required to do so. However, it is in the interests of all concerned to ensure that it is the most appropriate Councillors and/or officers to deal with a particular matter who are asked to attend.
- 8.4 The following conventions will therefore apply:
- (i) the Cabinet should normally be consulted, through the proper officer, on who are the most appropriate councillors and/or officers to answer questions on a particular matter;
 - (ii) generally, only officer of Service Director level or above should be invited to attend, although more junior officers could be invited following consultation if appropriate;
 - (iii) the Chief Executive may make representations to the Overview and Scrutiny Committee if he/she feels that an inappropriate officer has been asked to attend, and the Committee will reconsider the matter;
 - (iv) any councillor or officer asked to attend, may be accompanied if they wish. Indeed, it will often assist the Committee's investigations if a councillor is accompanied by the responsible manager for the service under Scrutiny, or a senior manager is accompanied by an officer with specialist or technical knowledge of the subject, so that their knowledge can be available to the Committee;
 - (v) councillors and officers have discretion to give a written answer, and/or take further advice, if it is clear that this is the most appropriate way of dealing with the matter;
 - (vi) questioning of officers should normally be confined to matter(s) of fact or to explanations of action taken and/or advice given, officers should not be drawn into discussion of alternative policies which are politically contentious.
- 8.5 Where any councillor or officer is required to attend an Overview and Scrutiny Committee under paragraph 8.1, the proper officer will inform the councillor or officer concerned, giving as much notice as possible of the meeting which he/she is required to attend. The proper officer will state the nature of the item in connection with which attendance is required and whether any papers are to be produced. Where production of a report is required, sufficient time must be allowed for this.

- 8.6 Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, the matter will be deferred to the next scheduled meeting of the committee.

Attendance by others

- 8.7 An Overview and Scrutiny committee may invite people other than councillors or officers of the Council to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, councillors and employees in other parts of the public sector or in the private sector and will invite such people to attend, though it has no power to compel their attendance.
- 8.8 In all cases where an Overview and Scrutiny Committee is carrying out investigations and has invited councillors or officers of the Council, or others to attend, the Committee will observe the following principles:
- (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of those attending, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

9. Reports from Overview and Scrutiny committee

- 9.1 The reporting procedure will be as follows:

(i) Scrutiny and Review of Decisions

The proper officer will draw up a report setting out the conclusions reached by the Committee and any other observations the committee wishes to make. He/she will submit the report to the next practicable meeting of the committee for agreement that is a fair and accurate reflection of the committee's views. Having obtained such agreement, the proper officer will then submit the report to the Council, with a copy to the Cabinet if the decision in question was an executive decision.

(ii) Policy Reviews

The proper officer will draw up and seek a report and seek the agreement of the Committee in the manner described in paragraph (i). He/she will submit the report to the next practicable meeting of the committee for agreement that it is a fair and accurate reflection of the committee's views. Having obtained such agreement, the proper officer will then submit the report to the Council, with a copy to the Cabinet if the decision in question was an executive decision.

(iii) Performance Management

The proper officer will draw up a report and submit it to the next practicable meeting of the Cabinet. The report will be included with the minutes of the next meeting of the Committee.

(iv) Schedule of Decisions

As for performance management.

(v) Councillor Calls for Action

The proper officer will draw up a report setting out the conclusions reached by the Committee and any other observations the committee wishes to make. He/she will then submit the report to the Cabinet and any relevant partner organisations (including the themed partnership and the responsible authorities of the Community Safety Board and co-operating persons and bodies, as appropriate) and to the councillor who raised the call for action.

9.2 The body to which the report is made will:

- Consider it at the earliest practicable meeting (in the case of councillor calls for action this should be within a period of one month from the date of the report recommendations unless this is not reasonable), and
- Agree a response which the proper officer will report back to the Committee

9.3 Where the Council receives a report from an Overview and Scrutiny Committee which would require a departure from or a change to the agreed budget or policy framework, it will not consider the report unless it has also received the recommendation of the Cabinet on the matter.

9.4 An Overview and Scrutiny Committee will seek to reach consensus on any report to the Cabinet or Council relating to the Scrutiny of decision or a policy review. But if after full discussion it cannot agree on a final report, then one minority report may be prepared and submitted with the majority report.

10. Call-in of Executive Decisions

10.1 The power of call-in enables members of the Overview and Scrutiny Committees who have reasonable concerns about a particular executive decision to request that the decision be discussed by an Overview and Scrutiny committee and, if the committee agrees, referred back the decision-maker for reconsideration. However, it is important that the call-in mechanism is not abused or used unduly to delay decisions or slow down the process of decision making. In particular, urgent decisions should not be called in or otherwise delayed.

10.2 The call-in procedure set out in this paragraph will be exercised having regard to the above principles, and subject to the limitations set out in paragraph 10.15.

10.3 The power of call-in applies to:

- A decision made by the Cabinet, or
 - An executive decision made under joint appointments, or
 - A key decision made by a manager under delegated powers.
- 10.4 When such a decision is made, a record of it will be published at the Civic Centre normally within two working days. The procedure for publication will be determined by the proper officer from time to time and notified to all members of the Council. The procedure will provide that a copy of the record of decision must be sent to the Chairs of all Overview and Scrutiny Committees within the timescale for publication.
- 10.5 The record of the decision will bear the date on which it is published. It will specify that the decision will come into force, and then may be implemented, on the expiry of three working days after the publication of the decision, unless it has been called in.
- 10.6 Within the three-day period, any three members of the Overview and Scrutiny Committee within whose remit the decision falls, may sign a notice requesting that the decision is called in and submit the notice to the proper officer. The notice should give reasons for wishing to call the decision in.
- 10.7 On receipt of the notice the proper officer will, as soon as possible, seek the views of the Chair or Vice-Chairs of the committee concerned. In the absence of any of these office-holders, a Chair or Vice-Chair of another Overview and Scrutiny Committee, from the same political group, will be asked to give views.
- 10.8 The Chair and Vice-Chair(s) will consider whether the request for call-in is reasonable. They will take account of whether a case has been made out for calling the decision in, and whether delaying the implementation of the decision would be likely to cause significant damage to the Council's interests. They will have regard to the advice of the Monitoring Officer and the Chief Finance officer on this point.
- 10.9 If the Chair and Vice-Chair(s) agree that the request for call-in is reasonable, the proper officer will convene a meeting of the relevant Overview and Scrutiny Committee within five working days, having consulted the Chair about the date. The Committee will then proceed as set out in paragraph 10.11.
- 10.10 If the chair and vice-chair(s) consider that the request is unreasonable, the decision will not be called in. The proper officer will submit a report to the next available meeting of the committee giving details of the report and the chair's/vice-chairs' reasons for refusing it.
- 10.11 Where an Overview and Scrutiny Committee considers a called-in decision, the format of the meeting will be as follows:
- After the Chair opens the meeting the councillors who called in the decision will be asked to explain why they have done so and what they feel should be reviewed;
 - The relevant Cabinet member will be invited to make any comments;

- A presentation will be given by the Strategic Director who is responsible for the service which is the subject of the called-in decision;
- The Committee will discuss the decision and ask questions of officers in attendance at the meeting;
- The Cabinet member will be invited to make any final comments on the matter.

The Committee, having considered the presentations made by the Cabinet member(s) and officers, will make one of the following decisions:

- Take no further action, in which case the decision will take effect immediately;
- Refer the decision back to the decision-maker for reconsideration, setting out the nature of its concerns; the decision-maker must then reconsider the matter as soon as practicable, taking account of the Committee's concerns;
- Refer the matter to full Council, in which case paragraph 10.13 will apply.

10.12 If the Committee fails to meet within the five working days allowed by paragraph 10.9, the decision will take effect at the end of that period.

10.13 Where the Committee decides to refer a matter to full Council the proper officer will call a meeting of the Council on such a date as he/she may determine, where possible after consultation with the Mayor, and in any case within five working days of the Committee's decision to refer the matter to full Council. The Council will either:

- Take no further action, in which case the decision will take effect immediately;
- Refer the decision back to the decision-maker for reconsideration, setting out the nature of its concerns; the decision-maker must then reconsider the matter as soon as practicable, taking account of the Council's concerns.

10.14 Where the decision has been made under joint arrangements, the proper officer will immediately notify the lead authority that it has been called in.

Limitations

10.15 To ensure that the power of call-in is not abused, nor causes undue delay to the Council's business, it will be subject to the following limitations:

- (i) no decision which has been taken as a matter of urgency following the approval of the Chair of the relevant Overview and Scrutiny Committee or Mayor or Deputy Mayor, may be the subject of a request for call in;
- (ii) no decision may be called in more than once;

10.16 The record of any decision taken as a matter of urgency under paragraph 10.15 (i) will state that the decision is urgent and therefore not subject to call-in. A report of decisions which have been treated as urgent under this paragraph will be submitted

to the next practicable meeting of the Council, together with the reasons for urgency.

10.17 The proper officer will monitor the operation of the call-in provisions, including the limitations on call-in, having regard to the principles in paragraph 10.1. He/she will submit an annual report on their operation to the Council, with proposals for review if necessary.

11. Scrutiny of decisions allegedly outside the budget or policy framework

11.1 This procedure applies where an Overview and Scrutiny Committee believes that an executive decision is, or if made would be:

- Contrary to the policy framework, or
- Contrary to, or not wholly in accordance with the Council's budget

11.2 The Overview and Scrutiny Committee will seek advice from the monitoring officer and/or the Strategic Director, Resources and Digital (referred to in this Rule as 'the officers'). If, after considering this advice, the Committee considers that the matter should be pursued, the officers will prepare a report and submit it to the Cabinet with a copy to every member of the Council.

11.3 Having considered the officers' report, the Cabinet will submit a report:

- To the Council if the officers' advice is that the decision was a departure, or
- To the Overview and Scrutiny Committee if the officers' advice is that the decision was not a departure.

11.4 If the decision has yet to be made, or has been made but not yet implemented, and the officers' advice is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny committee may refer the matter to the Council. In such a case, the decision will not be made or implemented until the Council has met and considered the matter.

11.5 The Council will consider the matter at the next meeting after the referral by the Overview and Scrutiny Committee, subject to the need to comply with the Access and Information Rules. Alternatively, a special meeting may be held if the Mayor agrees.

11.6 At the meeting, the Council will receive a report of the decision or proposal and the officers' advice. The Council may do one of three things:

Alternative 1

Endorse the decision or proposal as falling within the existing budget and policy framework. No further action is required, except to minute the Council's decision and circulate it to all councillors in the usual way.

Alternative 2

Amend the Council's budget or policy framework to encompass the decision or proposal, and agree to the decision or proposal with immediate effect. No further action is required, except to minute the Council's decision and circulate it to all Councillors in the usual way.

Alternative 3

The Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget but does not agree to amend the budget or policy framework to accommodate it. The Cabinet must reconsider the matter in accordance with officers' advice.

12. Key decisions allegedly not in the schedule of decisions

12.1 If an Overview and Scrutiny Committee believes that a key decision has been taken which was not:

- Included in the schedule of decisions, or
- The subject of Access to Information Rule 14.7

the Committee may require the Cabinet to submit a report to the Council on the matter.

12.2 The Cabinet, having taken the advice of the Monitoring Officer, will arrange submission of a report to the Council. The report will set out the particulars of the decision, the circumstances in which it was taken and (if appropriate) the reasons for considering that it was not a key decision.

13. The Party Whip

13.1 When an Overview and Scrutiny Committee is to consider any matter in respect of which a member of the committee is subject to a party whip, the councillor must declare the existence of the whip, and the nature of it, before the committee begins to consider the matter. The declaration will be recorded in the minutes of the meeting.

13.2 'Party Whip' means any instruction given by or behalf of a political group to any councillor who is a member of that group, as to how that councillor will speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application of, or a threat to apply any sanction by the group in respect of that councillor, should he/she speak or vote in any particular manner.

14. Matters within the remit of one committee

14.1 Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or part) within the remit of another Overview and Scrutiny Committee, then the Committee conducting the review will invite the Chair of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

15. The Health and Wellbeing Board

- 15.1 The Council may review and scrutinise any matter relating to the planning, provision and operation of the health service in their area.
- 15.2 The procedure for the conduct of any such review is set out in Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Scrutiny) Regulations 2013.

16. Definitions

- 16.1 In these Rules, unless context requires otherwise:

‘Overview and Scrutiny Committee’ includes any Sub-Committee of an Overview and Scrutiny committee;

‘proper officer’ means Strategic Director, Corporate Services and Governance.

TABLE 1 – TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY COMMITTEES

Families Overview and Scrutiny Committee

To perform the Overview and Scrutiny role in relation to the Council's functions:

1. as an education authority;
2. in respect of the provision of social services, and other services to children and young people, including specific health services for children and young people (including the function of reviewing and scrutinising matters relating to the health service as set out on the Health and Social Care Act 2001 and associated regulations).
3. to receive and consider monitoring reports on children in the Council's care.
4. to keep under review the Council's arrangements for ensuring that the Council fulfils its role as corporate parent.

Membership:

- Eighteen members of the Council
- One Church of England diocesan representative
- One Roman Catholic diocesan representative
- Four parent governor representatives

Care, Health and Wellbeing Overview and Scrutiny Committee

To perform the Overview and Scrutiny role in relation to

1. all the functions of the Council as a social services authority except those services provided to children and young people;
2. the provision of health services in the Borough, including the function of reviewing and scrutinising matters relating to the health service to adults as set out in the Health and Social Care Act 2001 and associated regulations;
3. the provision of health services to children and young people in the borough
4. the health functions discharged by the Health and Wellbeing Board and the Director of Public Health under the Health and Social Care Act 2012 and the National Health Service Act 2006 (as amended) and any related enactment.

Membership: Eighteen members of the Council.

Housing, Environment and Healthy Communities Overview and Scrutiny Committee

To perform the Overview and Scrutiny role in relation to

1. economic development and vitality
2. lifelong learning including education, training and learning outside the school environment; people into work
3. culture, leisure, the arts, sports and recreation
4. the safety of communities and people in the Borough
5. matters relating to housing, including management and maintenance of the Council's housing stock and private housing stock
6. the physical development and regeneration of the area
7. transport planning and the promotion of public transport
8. the quality of the local environment, including refuse collection, street cleaning, ground maintenance, highway maintenance and the cleaning of Council buildings
9. the protection of the environment, including Climate Change
10. Homelessness, rough sleeping and asylum matters.

Membership: Eighteen members of the Council and four Housing Scrutiny Panel representatives and two Housing Assurance Board representatives (all non-voting).

Corporate Resources Overview and Scrutiny Committee

To perform the Overview and Scrutiny role in relation to

1. the management of the Council's financial, human and physical resources
2. support for the democratic process
3. the involvement of the people and communities of Gateshead in the work of the Council
4. capacity building in communities, volunteering and resilience
5. social inclusion, equalities and diversity
6. the Council's arrangements for securing efficiency and value for money; and the development and operation of the Council's procurement strategy.

Membership: Eighteen members of the Council, to include the Chairs and Vice-Chairs of other Overview and Scrutiny Committees.

FINANCIAL REGULATIONS

Introduction and Background

1. What are Financial Regulations

- 1.1 The Local Government Act 1972 (Section 151) requires that an employee of the Council is recognised as the Responsible Financial Officer. Gateshead Council has designated the Strategic Director, Resources and Digital as that officer.
- 1.2 The Accounts and Audit Regulations place a duty on the Strategic Director, Resources and Digital to determine the:
- Appropriate financial records, including the form of accounts and supporting financial records; and
 - Systems of financial control.
- 1.3 The systems of financial control must include measures to:
- a. ensure that the financial transactions of the Council are recorded as soon as, and accurately as, reasonably practicable;
 - b. enable the prevention and detection of inaccuracies and fraud; and
 - c. ensure that risk is appropriately managed.
- 1.4 The Strategic Director, Resources and Digital has developed the following Financial Regulations as part of the system of financial control. These regulations provide a framework for managing the Council's financial affairs, whilst enabling a culture of accountable autonomy.
- 1.5 Each Financial Regulation is supported by more detailed guidance and procedures which set out how the Financial Regulations will be implemented.
- 1.6 The Strategic Director, Resources and Digital has responsibility for the preparation, review and amendment of these Financial Regulations. They should be read in conjunction with other sections of the Council's Constitution, in particular:
- Part 3, which sets out delegations to the Cabinet, various Council bodies and managers;
 - The Budget Policy and Framework Rules; and
 - The Contracts Procedure Rules.
- 1.7 The Strategic Director, Resources and Digital has responsibility for the administration of the Council's financial affairs and is chief financial advisor to the Council and Cabinet. Any issues of uncertainty in the interpretation of these Financial Regulations should in the first instance be referred to the specified contact for that Regulation.

- 1.8 The Strategic Director, Resources and Digital is responsible for the production of financial management information and will keep the Council and Cabinet informed of the financial implications of all new policies and changes of policies.
- 1.9 Each Strategic Director must Consult the Strategic Director, Resources and Digital on any matter within their purview which is liable to materially affect the finances of the Council before any provisional or other commitment is incurred or before reporting to the Cabinet on the matter.
- 1.10 The Strategic Director, Resources and Digital, or in their absence their nominated Deputy, may take any action they consider necessary taking in to account their duty under Section 114 of the Local Government Finance Act 1988, which provides that they must make a report if it appears to them that the Council, a person holding any office or employment under the Council, or a joint committee on which the Council is represented:
- 1) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful;
 - 2) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council; or
 - 3) is about to enter an item of account the entry of which is unlawful.
- 1.11 Section 114 also requires a report where it appears the expenditure of the Council is likely to exceed the resources available to it to meet that expenditure.
- 1.12 Each Service Director is responsible for establishing internal control so that the activities under their control are dealt with efficiently and effectively. Internal control covers financial and other measures which are established to:
- Safeguard the Council's assets;
 - Ensure reliability of records; and
 - Monitor adherence to policies and directives.

2. Who do Financial Regulations apply to?

- 2.1 Financial Regulations apply to everyone involved in financial transactions on behalf of the Council. Not every Regulation will be relevant to all employees, but employees should be aware that failure to comply where relevant could result in disciplinary action.
- 2.2 Financial Regulations also apply to Council employees when they are acting in an official capacity as a Council officer dealing with non-Council monies.
- 2.3 Schools have separate Financial Regulations.

3. Why are they important?

- 3.1 To conduct its business effectively, the Council needs to ensure and demonstrate that sound financial management arrangements are in place and that they are complied with in practice.
- 3.2 In order to continually meet the Council's Duty of Best Value, it is vital that it maintains good, sound financial management which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 3.3 Adherence to these Financial Regulations will help control spending, ensure due probity of transactions and allow decisions to be informed by accurate accounting information. They also protect employees, in that by complying with the Regulations they can gain assurance that they have followed correct procedures.
- 3.4 Good financial management requires secure and reliable records and systems to process transactions and information and demonstrate the effective use of public money.
- 3.5 Financial Regulations should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in the Constitution.

4. Key Principles

- 4.1 All employees should have regard to the following principles:
 - Budgets must not be overspent.
 - Only goods, works and services legitimately required by the Council should be purchased.
 - All spend should represent good value for money.
 - All income due must be collected, held securely and banked promptly and intact.
 - Assets should be managed in an efficient and effective manner.
 - A principal of common sense should underpin all transactions performed on behalf of the Council.

5. Who is responsible for ensuring they are applied?

- 5.1 The Financial Regulations often refer to Service Directors as being responsible, and whilst they are ultimately responsible for ensuring that the Financial Regulations are applied and observed by their officers and for reporting to the Strategic Director, Resources and Digital any known or suspected breaches of the Financial Regulations, it is important that all employees involved in financial transactions are aware of their personal responsibility.

5.2 The Strategic Director, Resources and Digital is responsible for issuing advice and guidance to underpin the Financial Regulations.

5.3 The Strategic Director, Resources and Digital is responsible for maintaining a continuous review of the Financial Regulations.

6. **Waivers of Financial Regulation Rules**

6.1 There are expected to be very few instances when it would be appropriate not to comply with the Financial Regulations. Waivers of Financial Regulations can only be requested by Service Directors, approved by the Strategic Director, Resources and Digital, and will only be agreed where it can be shown that a waiver would not result in unnecessary financial risk or loss.

7. **General**

7.1 For each Financial Regulation, an owner will be nominated who will have overall responsibility for ensuring that it is:

- Modern and proportionate
- Communicated
- Regularly reviewed
- Complied with

7.2 Where appropriate, the owner of the Financial Regulation will provide details of training and development available and how this can be accessed.

7.3 If an employee would like to propose an amendment to a particular Financial Regulation, they should contact the owner. This includes where it is felt that the controls are not proportionate to the risk, or that the Regulation has not been updated to match changes in technology, systems or procedures.

Financial Regulation	Owner
1. Budget Management	Corporate Finance Manager
2. Capital Budget Preparation, Control and Accounting	Corporate Finance Manager
3. Revenue Budget Preparation, Control and Accounting	Corporate Finance Manager
4. Internal Audit	Chief Internal Auditor
5. Income	Service Director – Financial Management
6. Banking Arrangements	Corporate Finance Manager
7. Treasurer, Accountable Body and other Similar Financial Arrangements	Corporate Finance Manager
8. Grants and Contributions Given	Corporate Finance Manager
9. Grants and Contributions Receivable	Corporate Finance Manager
10. Purchases and Payments	Service Director – Financial Management
11. Payroll and Pensions	Service Director – Financial Management
12. Travelling and Subsistence	Service Director – Financial Management Experience
13. Land and Property	Corporate Property Manager
14. Treasury Management	Corporate Finance Manager
15. Bequests, Trusts, Client and Amenity Fund Monies	Corporate Finance Manager
16. Insurance	Corporate Finance Manager
17. Risk Management	Chief Internal Auditor
18. Stocks and Stores	Corporate Finance Manager
19. Control of Assets (excluding Land and Property)	Corporate Finance Manager
20. Fees and Charges	Corporate Finance Manager
21. Taxation	Corporate Finance Manager
22. Fraud and Corruption	Chief Internal Auditor

1. Budget Management	
Objective	To ensure that budget monitoring is both accurate and timely and enables the Council to effectively manage its financial affairs.
Key Risk(s)	<p>Budgets overspend resulting in available reserves falling below the minimum level required to mitigate the Council's financial risks.</p> <p>The Council is unable to deliver an outturn within budget and its' financial position is unsustainable in the medium term.</p> <p>Poor financial decisions due to inaccurate financial information.</p>
Key Rule(s)	<p>Service Directors must ensure that all budgets are allocated to a named budget holder who are suitably competent to be responsible for managing and controlling a budget.</p> <p>Named officers will be deemed responsible for managing service delivery and containing expenditure within the agreed revenue and capital budgets, with support from Financial Management and comply with the roles and responsibility set out in the budget holder manual.</p> <p>Managers understand they are responsible for delivering services cost effectively, securing value for money and will be held accountable for doing so.</p> <p>Budget holders will receive regular reports on performance against their budget allocations, identifying any significant variations from the agreed budget and must take prompt action to address them.</p> <p>The Council operates a financial management system (Agresso) that enables the consistent production of comprehensive, accrual based, accurate and up to date data that fully meets users' needs. All budget monitoring information will be recorded on the Council's financial ledger system in a timely manner in order to inform corporate financial reporting.</p> <p>Budget holders must ensure they oversee the implementation of agreed savings related activities and the achievement of the savings themselves with the appropriate levels of consultation.</p> <p>Strategic and Service Directors will raise any significant financial issues as they become known with the Service Director, Resources and Digital or their representative.</p>
Guidance	<p>Manual of Financial Procedures</p> <p>Budget Holder Manual</p>

2. Capital Expenditure	
Objective	To ensure that the preparation, approval and monitoring of the Council's capital expenditure is robustly controlled.
Key Risk(s)	<p>Failure to deliver capital projects to time, cost and quality requirements.</p> <p>Incorrect distinction between capital and revenue expenditure.</p> <p>Unapproved capital spending.</p> <p>Capital expenditure does not reflect Council priorities.</p> <p>Insufficient resources to fund the capital expenditure and / or the revenue implications of the project.</p> <p>Council resources are not prioritised.</p> <p>Project outputs / outcomes are not achieved.</p> <p>The Council's fails to deliver the programme within budget and the financial position is unsustainable in the medium term.</p> <p>Poor financial decisions due to inaccurate financial information.</p>
Key Rule(s)	<p>The Capital Programme and Capital Strategy is approved by full Council prior to the start of the financial year.</p> <p>Updates to the Capital Programme are reported to Cabinet and Council quarterly.</p> <p>Service Directors are responsible for capital projects within their Service and must ensure that the Capital procedures are complied with. Project managers must hold the necessary competencies for effectively managing a capital budget.</p> <p>The Strategic Director, Resources and Digital must provide management information to enable Service Directors to manage their respective capital projects.</p> <p>Service Directors are responsible for ensuring value for money for each capital project and that approved costs are not exceeded. Corrective action must be taken where projections show an overspend position.</p> <p>Only costs which meet the statutory definition of capital expenditure for Local Authorities can be charged to capital projects.</p> <p>Service Directors must have approval in place for full project costs prior to committing expenditure other than design fees and surveys.</p> <p>Service Directors should ensure that appropriate professional advice is sought (to include but not restricted to financial, legal, procurement) prior to project approval in accordance with Capital Guidance.</p>

Guidance	Manual of Financial Procedures Capital Strategy
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3. Revenue Budget Preparation, Control and Accounting	
Objective	To ensure that the Council's budget setting process and subsequent accounting is accurate, timely and meets all statutory and corporate requirements.
Key Risk(s)	<p>Budget overspend resulting in available reserves falling below the minimum level to mitigate the Council's financial risks.</p> <p>The Council's financial position is unsustainable in the medium term.</p> <p>Poor financial decisions due to inaccurate financial information</p>
Key Rule(s)	<p>Accounting and budgeting procedures and policies must be complied with.</p> <p>All financial transactions of the Council must be recorded as soon as, and as accurately as reasonably practicable. All budgets and budget forecasts must be maintained on the Council's financial ledger system (Agresso) unless otherwise agreed by the Strategic Director, Resources and Digital.</p> <p>Budgets will be loaded into the Council's financial system in good time for the coming financial year to aid monitoring.</p> <p>Budget holders are responsible for informing Financial Management of any issues impacting upon the accuracy of financial projections.</p> <p>Legal entities and other arrangements for which the Council has financial responsibility must operate in accordance with the Council's Financial Regulations and related policies and procedures unless otherwise agreed by the Strategic Director, Resources and Digital.</p> <p>The approved budget can only be amended in accordance with virement procedures and delegated limits are set out in the Constitution.</p> <p>Managers understand that they are responsible for delivering services cost effectively, securing value for money and will be held accountable for doing so.</p> <p>Budget holders will work with Financial Management to develop a budget for the coming year including fees and charges increases and in line with the constitution.</p> <p>Purchase card holders must follow the agreed procedure, terms and conditions for use of the card including the coding and approving of transactions in a timely manner.</p> <p>The Strategic Director, Resources and Digital must be consulted before entering into the following types of arrangement:</p> <ul style="list-style-type: none"> • A lease or similar arrangement. • A loan. • A finance guarantee. • A payment in advance. • Non-monetary (or part) exchange of assets. • Non-standard contract terms.

Guidance	Manual of Financial Procedures Medium Term Financial Strategy
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4. Internal Audit

<p>Objectives</p>	<p>To promote an effective Internal Audit Service on behalf of the Strategic Director, Resources and Digital, in line with legislation and the appropriate audit standards.</p> <p>To provide independent and objective assurance designed to add value and improve the Council's activities.</p> <p>To help the Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.</p>
<p>Key Risk(s)</p>	<p>That the Council may operate in an inefficient and ineffective way and not achieve value for money.</p> <p>That the Council's key controls do not operate as intended and do not protect against fraud, theft, inefficiency and error.</p>
<p>Key Rule(s)</p>	<p>The Strategic Director, Resources and Digital must ensure that the Council has an effective Internal Audit function.</p> <p>The Chief Internal Auditor must be able to report without fear or favour, in their own name to the Chief Executive, Cabinet and Audit and Standards Committee as well as the Scrutiny Functions.</p> <p>All audit work must be conducted in accordance with the appropriate professional standards.</p> <p>Service Directors must ensure that Internal Audit is allowed to:</p> <ul style="list-style-type: none">• Enter all Council premises and land at reasonable times.• Access all records, documents, data and correspondence relating to all transactions of the Council, or unofficial funds operated by an employee as part of their duties.• Receive all explanations as are necessary concerning any matter under examination.• Require any employee of the Council to produce cash, stores or any other property under their control belonging to the Council or held as part of the employee's duties.

Guidance	Internal Audit Charter
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5. Income	
Objective	To ensure that income due is collected, banked and accounted for in an efficient and secure manner.
Key Risk(s)	<p>Loss of income due to the Council through non-identification, non-collection or theft.</p> <p>Inefficient collection of income.</p> <p>Impact on Council cash flow.</p>
Key Rule(s)	<p>The procedures set out in the Manual of Financial Procedures in relation to income collection and banking must be followed and any changes from the procedures must be in an agreed manner.</p> <p>All income activity will be in accordance with the Council's Anti Money Laundering Policy, Procedures and Reporting Arrangements.</p> <p>All monies received on behalf of the Council must be paid intact into the relevant income account and recorded in the Council's financial ledger system (Agresso) in a timely manner.</p> <p>All monies for the Council must be paid into an authorised bank account.</p> <p>Treasury Management will be informed of any material income in advance of receipt.</p> <p>Service Directors must ensure that sundry debtor invoices are issued in an accurate and timely manner. They should also monitor payment to ensure the Council receives all due income and avoids future financial risk.</p> <p>Service Directors and budget holders are responsible for ensuring that any income records held outside of Agresso are flagged with the relevant business partner to ensure performance monitoring at year end accounting takes place.</p>
Guidance	<p>Manual of Financial Procedures</p> <p>Anti Money Laundering Policy, Procedures and Reporting Arrangements.</p>

6. Banking Arrangements

Objectives	<p>To ensure that all bank accounts operate in a secure and approved way.</p> <p>For the purposes of this Regulation the term bank account covers all bank accounts, imprest accounts, building society accounts and other holdings with third party financial institutions to which officers of the Council are signatories.</p>
Key Risk(s)	<p>Bank accounts may be created and used for unapproved activities.</p> <p>Insufficient controls are in place for the Council's banking arrangements, increasing the risk of fraudulent or unapproved transactions.</p>
Key Rule(s)	<p>The Strategic Director, Resources and Digital must approve the opening or closing of any bank account operated on behalf of the Council.</p> <p>Only methods of payment approved by the Strategic Director, Resources and Digital may be used.</p> <p>All bank accounts must be set up and operated in accordance with the bank and imprest account operating procedures guidance notes.</p> <p>Overdraft facilities or other borrowing arrangements must not be agreed without the express permission of the Strategic Director, Resources and Digital.</p>
Guidance	Manual of Financial Procedures

7. Treasurer, Accountable Body and Other Similar Financial Arrangements

Objective	To ensure that the financial affairs of legal entities and other arrangements for which the Council has responsibility are managed in a secure and effective manner.
Key Risk(s)	<p>Funds are misappropriated or used for unauthorised purposes.</p> <p>Impact on the Council's financial reputation due to inaccurate or misleading financial reporting.</p> <p>Financial commitments or underwritings are given without the Council's agreement or knowledge.</p> <p>Poor financial decisions due to inaccurate financial information.</p>
Key Rule(s)	<p>The Strategic Director, Resources and Digital must agree to undertake the financial responsibilities for such arrangements, except where the Council has a legal obligation to do so.</p> <p>Service Directors must ensure that an appropriate employee is appointed to manage arrangements covered by this Regulation.</p> <p>All financial reporting must comply with appropriate accounting standards. Budgets must be set, monitored and reported to the Strategic Director, Resources and Digital in line with the guidance and timetable issued.</p> <p>All accounting records and budgets must be maintained on the Council's financial ledger system (Agresso) unless otherwise agreed by the Strategic Director, Resources and Digital.</p> <p>The Strategic Director, Resources and Digital must be consulted on all investment decisions taken.</p> <p>All such arrangements must comply with the Council's Financial Regulations unless otherwise agreed by the Strategic Director, Resources and Digital.</p>
Guidance	Manual of Financial Procedures

8. Grants and Contributions Given	
Objective	To ensure that all grants and contributions made by the Council are appropriate, provide value for money and associated outcomes are achieved.
Key Risk(s)	<p>Grants and contributions given are not in accordance with Council priorities.</p> <p>The awarding of grants and contributions is seen as unfair and open to challenge.</p> <p>Grants and contributions are not spent in line with the agreed terms and conditions and the required outcomes of the funding are not achieved and it is subject to clawback.</p>
Key Rule(s)	<p>Ensure that organisations in receipt of grant aid demonstrate that they are a competent and suitable organisation to receive public monies.</p> <p>Grants and contributions must only be given in accordance with the Council priorities and awarded on a fair and equitable basis.</p> <p>The grant or contribution should represent value for money and not duplicate other funding provided by the Council or other organisations.</p> <p>All grants and contributions must be awarded and monitored by an appointed responsible officer with a written agreement stating appropriate terms and conditions. Terms and conditions must include required outcomes; how such outcomes will be measured and the obligations to repay the funding if the terms are not met. Legal advice must be sought.</p> <p>Appropriate action must be taken to reclaim funds when breaches of terms and conditions occur and / or outcomes are not achieved.</p>
Guidance	Manual of Financial Procedures

9. Grants and Contributions Receivable

<p>Objectives</p>	<p>To ensure the Council takes advantage of all opportunities to maximise resources in delivering its strategic priorities by securing external grants and contributions.</p> <p>To ensure the proper management of the obligations arising from a successful award of external funding.</p>
<p>Key Risk(s)</p>	<p>Failure to maximise grant drawdown / non-delivery of conditional outputs / outcomes.</p> <p>Exposure to grant clawback arising from non-compliance with terms and conditions.</p> <p>No effective exit strategy in place resulting future commitments once grant comes to an end placing pressure on existing budgets.</p>
<p>Key Rule(s)</p>	<p>The Strategic Director, Resources and Digital shall be consulted prior to the submission of applications for funding, including any requirements for match-funding.</p> <p>Grants the Council seeks to bid for must be in line with key strategic priorities.</p> <p>Service Directors must ensure that grants and contributions in their Service area are properly evidenced, regularly monitored, promptly claimed and that all relevant terms and conditions are met.</p> <p>Service Directors must ensure an exit strategy is in place to address the budget impact once the funding ends.</p> <p>The Strategic Director, Resources and Digital must agree to proposed arrangements whereby the Council is the accountable body and where the funder requires an external audit.</p> <p>The Strategic Director, Resources and Digital must be given all evidence needed so that grants can be claimed in a timely and accurate manner. Such evidence must be provided within the appropriate timeframe to allow the Strategic Director, Resources and Digital time to evaluate and, if necessary, question the evidence provided.</p> <p>All relevant and significant grant claims must be signed off by the Strategic Director, Resources and Digital or authorised representative.</p> <p>The Strategic Director, Resources and Digital is responsible for ensuring that all grant monies claimed are received and correctly accounted for.</p>
<p>Guidance</p>	<p>Manual of Financial Procedures</p>

10. Purchases and Payments	
Objective	Assets, goods, works and services legitimately required by the Council are appropriately purchased and paid for, and in compliance with the Council's Contract Procedure Rules.
Key Risk(s)	<p>Inappropriate items may be purchased which are not for Council use, or where there is no business need.</p> <p>Rogue spend and / or use of suppliers for goods and services for which an approved contracted supplier is in place.</p> <p>Incorrect amounts or duplicate payments may be paid to suppliers.</p> <p>Penalties for late payment of invoices.</p> <p>Theft, loss or misuse of Purchasing Cards or Petty Cash.</p> <p>Budget overspend.</p> <p>Reputational damage to the Council.</p> <p>Non-compliance with statutory requirements such as GDPR, Health & Safety, Safeguarding.</p>
Key Rule(s)	<p>Purchasing and payment for assets, goods, works and services must only be undertaken by authorised officers and in accordance with the approved purchase and payment procedures as defined by the Strategic Director, Resources and Digital. Any variation to the procedures must be agreed by the Strategic Director, Resources and Digital.</p> <p>Before assets, goods, works or services are ordered the designated budget officer must apply the following tests:</p> <ul style="list-style-type: none"> • Has the Service needs and objectives been obtained? • Is it affordable? • Is it Value for Money? • Is there financial provision? • Are there any implications in respect of GDPR, Health & Safety or Safeguarding? <p>Procurement of all goods, works and services by the Council including the procurement of Income Contracts and Concession Contracts must be in line with Contract Procedure Rules.</p>

	<p>Unless a specified exception applies, an official order must be raised through authorised systems in order to ensure a commitment is generated and a payment is made promptly. Once the goods are received the official order must be updated to reflect this.</p> <p>Before authorising a payment, it must be ensured that the goods, works or services have been properly ordered, there is proof of receipt and the invoice is accurate.</p> <p>To ensure prompt payment, invoices must be sent to Exchequer Services within three days of receipt.</p> <p>All payment feeder systems must be authorised by the Strategic Director, Resources and Digital, who will ensure appropriate controls are in place for the generation and authorisation of payment files.</p> <p>All Purchasing Card transactions must be in accordance with laid down procedures, including review and authorisation on a regular basis. All receipts for Purchasing Card and Petty Cash transactions must be retained and, if VAT is claimable, a proper VAT receipt obtained and kept. Where VAT receipts are not provided the service will bare the cost of VAT. Purchase card transactions must be coded in a timely manner to aid effective budget monitoring.</p> <p>All use and authorisation of Petty Cash must be in accordance with laid down procedures and limited to minor items of expenditure.</p>
Guidance	Manual of Financial Procedures Contract Procedure Rules

11. Payroll and Pensions	
Objective	To ensure that payments of salaries and pensions to employees and former employees of the Council are accurate, timely, made to the right people and in accordance with the relevant terms and conditions and are compliant with statutory regulations.
Key Risk(s)	<p>Incorrect or late payments made to recipients.</p> <p>Inaccurate or incomplete records held on the Payroll System.</p> <p>Penalties for inaccurate or late submission of returns or payments to HMRC or pension providers.</p> <p>Budget overspend.</p> <p>Reputational damage to the Council.</p>
Key Rule(s)	<p>In order to ensure correct treatment for tax, National Insurance and pension, all salary payments including councillors and casual workers must be processed through the Council's payroll system.</p> <p>Payment for any individual who does not fall within the scope of IR35, i.e. not an employee, must be paid via the Council's Financial Ledger, Agresso.</p> <p>To arrange and control secure and accurate payments of salaries or other emoluments to existing and former employees, in accordance with Council Procedures within the pre-determined and legislative deadlines.</p> <p>All permanent and temporary changes to employee terms and conditions affecting payroll and pensions must be notified promptly and accurately to the Strategic Director, Resources and Digital, and be in accordance with approved terms and conditions and statutory legislation.</p> <p>To ensure all appropriate payroll and pension documentation are retained and stored for the defined period in accordance with the document retention schedule and legislation.</p> <p>To ensure statutory returns and payments are submitted to HMRC and appropriate pension providers within deadlines.</p>
Guidance	<p>HR Policies</p> <p>Annual Payroll Timetables</p> <p>Procurement Protocols for non-employees</p>

12. Travelling and Subsistence	
Objective	To ensure that the reimbursement of allowances and expenses to employees and councillors is in accordance with the appropriate agreements and legislation.
Key Risk(s)	<p>Incorrect or late payments made to recipients.</p> <p>HMRC penalties for inaccurate or unreceipted VAT treatment.</p> <p>Irregular claims submission leading to budget overspend.</p> <p>Fraudulent claims.</p> <p>Reputational damage to the Council.</p>
Key Rule(s)	<p>Expenditure to be incurred and claims completed and authorised in accordance with guidance approved by the Strategic Director, Resources and Digital.</p> <p>Submission by the claimant will be taken to mean that the journeys and expenses were properly and necessarily incurred on Council business.</p> <p>Claims are to be submitted in accordance with the agreed timetable.</p> <p>Receipts must be provided for all expenditure claimed to enable VAT to be recovered from HMRC.</p>
Guidance	Manual of Financial Procedures

13. Land and Property	
Objective	To ensure there are effective controls in place for all property matters including acquisition, disposal, lease, licence or use of property so that the Council's property portfolio is managed in an efficient, effective and secure manner.
Key Risk(s)	<p>The Council incurs additional costs in operating its land and property portfolio due to:</p> <ul style="list-style-type: none"> • The retention of under utilised property • Inefficient use of land and property • The retention of property that is not fit for purpose
Key Rule(s)	<p>The Strategic Director, Housing, Environment and Healthy Communities is responsible for all acquisitions, disposals, leasing and licensing of all land and / or property. Service Directors must engage with the Strategic Director, Housing, Environment and Healthy Communities at the start of any initial consideration around:</p> <ul style="list-style-type: none"> • Acquisition or disposal of land and / or property owned by the Council. • Change in the use of any land and / or property owned or occupied by the Council. • Proposal to substantially reconfigure or refurbish Council owned or occupied property. • Change in the occupancy of property owned or occupied by the Council. • Lease or licence of land and / or property. • Use of Council land and / or property for the purpose of generating additional revenue income. • Where a property and / or land is no longer required and is considered surplus for service delivery purposes. • Where a Service is vacating a property (or part), so that the appropriate surplus property handover procedure is followed. <p>In relation to the above, the Strategic Director, Housing, Environment and Healthy Communities will then advise on the appropriate approval process to be followed taking into account the Council's overall strategic priorities, and with due consideration to the relevant financial approval process.</p> <p>All communication with vendors, purchasers or their agents or professional advisers shall be undertaken by the Strategic Director, Housing, Environment and Healthy Communities.</p>
Guidance	<p>Corporate Asset Strategy and Management Plan Solicitors' Regulation Authority Handbook Council of Mortgage Lenders' Handbook</p>

	RICS Professional Statements RICS Valuation Standards
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14. Treasury Management	
Objective	To ensure that all investment and borrowing is valid, accurate, efficient, properly accounted for and in accordance with statutory and corporate requirements.
Key Risk(s)	<p>Inefficient borrowing may have adverse impact on the Council's financial resources.</p> <p>Failure to recover investment monies from counterparties.</p> <p>Illegal borrowing or investment.</p> <p>Fraud / theft.</p> <p>Reputational damage to the Council.</p>
Key Rule(s)	<p>The Strategic Director, Resources and Digital is responsible for Treasury Management and no other employees, unless named in the officer scheme delegation, must borrow or invest Council funds.</p> <p>Funds are invested in accordance with the Treasury Management Strategy approved each year by Council.</p> <p>The Strategic Director, Resources and Digital will report on Treasury Management policies, practices and activities, including as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report in the form set out in the Treasury Management Practices.</p> <p>The Council delegates responsibility for the implementation and monitoring of its Treasury Management Policies and Practices to Cabinet and for the execution and administration of Treasury Management decisions to the Strategic Director, Resources and Digital who will act in accordance with the Council's Strategy Statement and Treasury Management Practices.</p> <p>The Audit and Standards Committee is nominated by the Council to be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies.</p>
Guidance	<p>Treasury Management Policy Statement</p> <p>Treasury Management Strategy</p> <p>Investment Strategy</p> <p>Treasury Management Practices</p>

15. Bequests, Trusts, Client and Amenity Fund Monies	
Objective	All bequests, trusts, client and amenity funds are correctly managed and monitored.
Key Risk(s)	Funds may be misappropriated or lost within the Council's overall funds.
Key Rule(s)	<p>Where gifts or bequests are received by the Council, details of the donor should appear on the inventory.</p> <p>All trusts should wherever possible be in the Council's name unless otherwise stated in the trust deeds, or where charities legislation dictates otherwise.</p> <p>Officers acting as trustees by virtue of their official position must deposit all documents of title relating to the trust with Legal and Democratic Services who must maintain a register of all such documents.</p> <p>The financial management of all bequests and trusts must be reported to the Strategic Director, Resources and Digital or their representative. For further details refer to Bequests and Trusts Guidance Note in the Manual of Financial Procedures.</p> <p>Where an employee of the Council is responsible for a fund not relating to the Council, the Service Director concerned shall ensure that the fund is properly administered and that it is independently audited, where appropriate, by person's having knowledge of the fund's purpose.</p> <p>Any proposed unofficial funds shall require the prior approval of the Service Director who must maintain a record of all such funds and ensure that officers are appointed to administer each fund.</p> <p>The Strategic Director, Resources and Digital is to have access to any records relating to such funds and must be informed immediately of any irregularities in connection with them.</p> <p>A private fund can only be set up if the Strategic Director, Resources and Digital is made aware and with the approval of the Service Director. It must be audited every year by two independent individuals or a CCAB/CIMA qualified accountant.</p>
Guidance	Manual of Financial Procedures

16. Insurance	
Objective	To ensure that the insurance risk across the Council is managed efficiently and effectively and limit the authority for arranging insurance cover to the Strategic Director, Resources and Digital.
Key Risk(s)	<p>Failure to secure appropriate insurance arrangements leaving the Council lacking cover in the event of a significant loss.</p> <p>Failure to seek the appropriate insurance advice when taking decisions could impact adversely on the Council's insurance risk.</p>
Key Rule(s)	<p>The Strategic Director, Resources and Digital is responsible for arranging all insurance.</p> <p>The Strategic Director, Resources and Digital, in consultation with the Chief Executive, is responsible for advising the Cabinet on insurance and will affect all insurance cover and negotiate all claims in consultation with other officers, where necessary.</p> <p>Directors must manage insurance risks within their Service. This includes:</p> <ul style="list-style-type: none"> • Notifying the Strategic Director, Resources and Digital of the nature and extent of any new insurable risk and of any alterations to currently insured risks. • Consulting with the Strategic Director, Resources and Digital at an early stage in projects / decisions that may have insurance implications. This consultation must be undertaken well in advance of the drafting of any legal agreements or any form of commitment made by the Council. • Immediately notifying the Strategic Director, Resources and Digital of any loss, liability or damage. • Supplying information to the Strategic Director, Resources and Digital, Legal Services or the Council's insurers. <p>The Insurance Claims Handling Protocol within the Manual of Financial Procedures must be complied with</p>
Guidance	Manual of Financial Procedures

17. Risk Management	
Objective	To ensure that the Council manages the strategic and operational risks associated with the provision of its services in accordance with good management practice and in compliance with the Local Code of Governance and the Council's Risk Management Policy.
Key Risk(s)	<p>Failure to identify and respond to risks associated with strategic decisions could result in missed opportunities to innovate, reduce costs and improve outcomes and consequently impact on the delivery of the Council's medium to long term objectives and priorities.</p> <p>Failure to identify operational risks and effectively mitigate, leading to service impact from failed internal processes, people, equipment or systems, or from external events.</p> <p>Absence of robust contingency plans for the security of assets and the continuity of service in the event of a disaster, significant event or system failure.</p>
Key Rule(s)	<p>Risks assessments must be carried out for all identified strategic and operational risks, including new and existing contracts / projects and contract changes.</p> <p>Procedures must be in place to update risk assessments either when triggered by a risk occurrence, a system or legislative change, or at appropriate intervals.</p> <p>Risk management should be integrated into the Council's strategic planning framework and all Service Business Plans.</p> <p>The Corporate Risk and Resilience Group will facilitate the preparation of Business Continuity Management Plans. In accordance with the Business Continuity Policy, Service Directors are responsible for the development and maintenance of the business continuity plan covering the activities within their Service's remit. The plans will describe the action to be taken in the event of a business interruption.</p> <p>All Business Continuity Management related activity within the Council is coordinated through the Corporate Risk and Resilience Group under the guidance of the Strategic Director, Resources and Digital.</p> <p>Accountable officers will ensure that appropriate, cost effective actions are taken to manage and control risks.</p>
Guidance	<p>Risk Management and Policy and Procedures</p> <p>Business Continuity Management Policy</p>

18. Stocks and Stores	
Objective	To ensure the Council holds appropriate stock levels in a secure manner.
Key Risk(s)	<p>The Council holds too much stock tying up resources, both financial and space.</p> <p>Stock in hand becomes obsolete or is misappropriated.</p> <p>The Council has insufficient stock to operate efficiently and effectively.</p>
Key Rule(s)	<p>Service Directors must ensure proportionate arrangements are put in place to safeguard stocks and stores under their control, in accordance with the Stocks and Stores Guidance.</p> <p>An officer must be nominated as responsible for the management and security of the stocks and stores.</p> <p>When a stock of goods is maintained there should be an inventory or stock record as appropriate for the value of the stock.</p> <p>Regular stock takes, at least annually, should be carried out. Any variance should be reported and investigated as appropriate.</p> <p>At the end of the financial year the method of stock valuation detailed in the Statement of Accounts – Guide for Services must be complied with.</p> <p>Stores or materials found to be obsolete or in excess of requirements are to be disposed of in accordance with relevant procedures.</p>
Guidance	Manual of Financial Procedures

19. Control of Assets (excluding Land and Property)	
Objective	To ensure that assets are kept securely and disposed of appropriately.
Key Risk(s)	<p>Assets may be misappropriated or used on an inappropriate way.</p> <p>Software and other intellectual property is not used in accordance with licensing agreements.</p>
Key Rule(s)	<p>Proportionate arrangements should be in place to safeguard assets, including those owned by third parties. Service Directors are responsible for ensuring arrangements are in place for maintaining effective security of all assets, including data and information.</p> <p>Assets including equipment and vehicles should only be disposed of in accordance with relevant procedures.</p> <p>All inventories must be maintained in accordance with relevant procedures.</p> <p>When an officer has to look after private property they must make a complete inventory of the property under their custody, and make arrangement for its safekeeping, including instructions on how to dispose of the property if the client dies.</p> <p>Service Directors must ensure that when an employee has to look after money not belonging to the Council, that they keep it separate from Council monies and make arrangements for its recording and safekeeping.</p>
Guidance	Manual of Financial Procedures

20. Fees and Charges	
Objective	Fees and charges are set to ensure full costs recovery and are regularly reviewed to ensure they continue to do so.
Key Risk(s)	Unapproved subsidy of services provided to third party. Out of date fees and charges, negatively impacting on Council budgets.
Key Rule(s)	<p>All fees and charges must be reviewed at least once per year as part of the Council's annual budget process.</p> <p>Within the annual review all fees and charges which are locally determined should be increased in line with guidance provided by the Strategic Director, Resources and Digital.</p> <p>Charges should be set at a level to ensure that all relevant costs are fully recovered, unless agreed otherwise.</p> <p>Any proposed changes to locally determined fees and charges, which are not in line with the guidance, or any proposals not to increase charges, will be agreed with the Strategic Director, Resources and Digital and the reasons set out in the Annual Fees and Charges Report.</p> <p>Only the delegations set out in the Constitution allow for changes to fees and charges throughout the financial year.</p> <p>Groups and Services must ensure that the correct approved fees and charges are correctly displayed and charged.</p> <p>The introduction of a completely new fee or charge, arising due to changes in policy or new policies, or a change to an existing charge throughout the financial year must be referred to Cabinet for approval and appropriate consultation should take place. This is the responsibility of the relevant Service Director.</p>
Guidance	Manual of Financial Procedures Annual fees and charges guidance

21. Taxation	
Objective	To ensure that taxation is correctly accounted for and any risks are effectively managed.
Key Risk(s)	<p>Incorrect accounting of taxation resulting in penalties from HMRC.</p> <p>Failure to comply with HMRC rulings.</p> <p>Inefficient taxation treatment leading to financial resources not being optimised.</p>
Key Rule(s)	<p>The Strategic Director, Resources and Digital must be consulted on:</p> <ul style="list-style-type: none"> • The nature and extent of any new agreements or alterations to existing arrangements where there may be taxation risks or potential taxation liabilities. • Projects / decisions that may have taxation implications. <p>This consultation must be undertaken well in advance of the drafting of any legal agreements or any form of commitment made by the Council.</p> <p>Taxation guidance, including statutory HMRC rule must be complied with.</p>
Guidance	Manual of Financial Procedures

22. Fraud and Corruption	
Objective	To ensure that the Council is committed to and promotes a culture of counter fraud and zero tolerance in relation to fraudulent activity.
Key Risk(s)	That the Council may be subject to fraud resulting in the potential loss of resources and / or reputational damage.
Key Rule(s)	<p>Whenever any matter arises which involves or is thought to involve, theft, fraud or financial irregularity, including breaches of these Financial Regulations, or bribery or corruption which involves the Council's interests, the Strategic Director concerned must immediately, and before proceeding with any further investigation, notify the Strategic Director, Resources and Digital of that matter.</p> <p>The Strategic Director, Resources and Digital will take such steps as they consider necessary by way of investigation and report, or by advising the Strategic Director about any further action to be taken.</p> <p>Each Strategic Director will maintain a Register of all offers of gifts and hospitality in a form to be agreed by the Strategic Director, Resources and Digital and Strategic Director, Corporate Services and Governance, and in accordance with the guidelines set out in the Code of Conduct for Council Officers (Part 5 of this Constitution).</p>
Guidance	<p>Audit Charter Counter Fraud and Corruption Policy Counter Fraud and Corruption Strategy Fraud Response Plan Whistleblowing Policy Statement on the Prevention of Bribery Code of Conduct for Council Officers Anti Money Laundering Policy, Procedures and Reporting Arrangements</p>

CONTRACT PROCEDURE RULES

1. Introduction and Interpretation

1.1 These Rules constitute the Council's standing orders on contracts for the purpose of section 135 of the Local Government Act 1972.

1.2 The following words within the Rules shall be interpreted as follows:

1.2.1 "Approved Electronic System" means the North East Procurement Organisation procurement portal or any other electronic system approved in writing by the Strategic Director, Corporate Services and Governance.

1.2.2 "Associated Company" means any company or limited liability partnership to which the Council may directly award contracts pursuant to the exemptions from the scope of the Regulations set out at Regulation 12 of the Regulations or any corresponding provision of any successor legislation.

1.2.3 "Contract" means a contract for the provision of works, goods or services for consideration to the Council by a Third Party unless a particular Rule makes it clear that a different meaning is intended;

1.2.4 "In-house Services" means services or works which can be delivered to the Council by an existing directly employed workforce or Associated Company.

1.2.5 "Local Contractor" means any Third Party whose principal place of business is in the borough of Gateshead or with premises in the borough of Gateshead in respect of which business rates are paid to the Council

1.2.6 "Regulations" means the Public Contracts Regulations 2015 (Statutory Instrument 2015 No. 102) and any subsequent amendments thereto;

1.2.7 "Third Party" means any economic operator, contractor, service provider, supplier, consultant, firm, company (excluding an Associated Company) partnership or a sole trader external to the Council;

1.2.8 "Threshold" means the thresholds prescribed in Regulation 5 of the Regulations.

1.3 These Rules apply to all procurement for the provision of works, goods or services by or from a Third Party. For the avoidance of doubt, these Rules do not apply to the commissioning of In-house Services, although any subcontracting arrangements are subject to these Rules

1.4 All procurement activity and Contracts must comply with:

1.4.1 all applicable statutory provisions, including but not limited to the duty to secure best value under the Local Government Act 1999;

- 1.4.2 where applicable, the Public Contracts Regulations 2015;
- 1.4.3 the Council's Constitution including the Codes of Conduct and Scheme of Delegation
- 1.4.4 any Council Procurement Protocols or Guidance proposed by the Service Director, Corporate Commissioning and Procurement and approved by the Strategic Director, Corporate Services and Governance.

and where there is a conflict between any of the above, in order of precedence as listed.

2. Exceptions to these Rules

2.1 Every Contract will comply with these Rules, unless:

2.1.1 the Cabinet authorises an exception, or

2.1.2 the matter is so urgent that it is not feasible to comply, in which case the officer concerned will report the reasons to the next meeting of the Cabinet, and the reasons for it will be recorded in the minutes of the Cabinet.

2.2 Rules 3 to 11 do not apply to a contract entered into by a school operating a delegated budget under the School Standards and Framework Act 1998. Schools must refer to the School Manual of Financial Procedures for Rules relating to procurement and contracting with a Third Party.

3. Procurement Principles

3.1 Subject to Rule 2 and to the exceptions at Rule 5.2.6 and 5.2.7, no Contract exceeding £250,000 in value shall be let without prior approval of the Cabinet, such approval to be in the form of either:

3.1.1 an authorisation to invite or negotiate tenders in accordance with Rule 6 or to conduct some other procurement process in accordance with these rules and to award the Contract to the economic operator submitting the most economically advantageous tender as determined by the Service Director, Corporate Commissioning and Procurement in accordance with the stated terms of the tender or other process and, where applicable, the Regulations; or

3.1.2 an authorisation subsequent to the conduct of a tendering process or other procurement process in accordance with these Rules to award the Contract to the economic operator that has submitted the most economically advantageous tender in accordance with the stated terms of the tender or other process and, where applicable, the Regulations.

3.2 All Contracts exceeding £25,000 in value will be procured in accordance with directions of the Service Director, Corporate Commissioning and Procurement who

shall be instructed at the earliest opportunity, unless the Strategic Director, Corporate Services and Governance authorises an exception.

- 3.1 Regard must be had to the potential consolidation of Contracts for works, supplies or services of a similar nature which are likely to be carried out in connection with a particular projects or services in order to achieve the best value for money.

4. **Restrictions on Contracts for Work That Can Be Carried out In House and for Services of a Professional or Technical Nature**

- 4.1 Unless Cabinet authorises an exception in writing:

- 4.1.1 No Contract for In-house Services (save for services comprising or relating to construction) may be entered into or offered for tender unless the Service Director responsible for the delivery of that In-House Service has first been offered the opportunity to negotiate to perform the services and either

- 4.1.1.1 the Strategic or Service Director responsible for the In-House Service agrees that the Contract should be entered into or offered; or

- 4.1.1.2 agreement cannot be reached on a reasonable price or timescale for the performance of the services by the Associated Company or in-house team.

- 4.1.2 No Contract for services of a professional or technical nature shall be entered into without prior consultation with and approval of the Strategic Director with responsibility for the relevant Service as set out in Article 13 of this Constitution and the relevant Strategic Director shall determine the scope of the services to be obtained (including the content of any service specification) and shall ensure the provision of such professional or technical support as is necessary to enable the Contract to be entered into.

5. **Procurement Requirements**

- 5.1 Subject to Rule 2, no Contract may be made, unless:

- 5.1.1 tenders have been invited or negotiated in accordance with Rule 6; or

- 5.1.2 Cabinet has decided that the works, supplies or services in question should be procured through a partnership arrangement, provided that the Strategic Directors of Corporate Services and Governance and Resources and Digital are satisfied with the procedures for procurement and with the terms of the contract; or

- 5.1.3 the works, supplies or services, in question are to be purchased through a framework or other arrangement entered into by the Council; or

- 5.1.4 the works, supplies or services, in question are to be purchased through any other bona fide framework arrangement set up by a local authority, a government department or other public body or central purchasing body and the use of the framework arrangement has been approved by the Service Director, Corporate Commissioning and Procurement.
- 5.2 Subject to the requirements of the Regulations, the requirements under Rule 5.1 do not apply to a Contract:
- 5.2.1 below £2,500 in value;
 - 5.2.2 between £2,500 and £25,000 in value provided that value for money can be demonstrated and consideration has been given whether to obtain competitive quotations using the Approved Electronic System, from at least four contractors or if this is not possible, from all capable contractors. Consideration should be given to whether or not Local Contractors can fulfil the requirement of the Council. If it is considered that Local Contractors can fulfil the requirements, then at least two Local Contractors should be invited to submit a quotation;
 - 5.2.2 between £25,000 and the relevant Threshold provided that the Contract is let using the Approved Electronic System in accordance with a procedure approved by the Service Director, Corporate Commissioning and Procurement;
 - 5.2.3 for goods purchased in a public market or at auction;
 - 5.2.4 for a work of art or museum specimen;
 - 5.2.5 for goods, works or services which are obtainable only from one contractor;
 - 5.2.6 for the placement of individuals in private residential or nursing homes where the Strategic Director, Children, Adults and Families considers such a Contract to be in the best interests of an individual provided the cost of the placement is within existing budgetary provision, and has been let in accordance with the Regulations;
 - 5.2.7 for social care or educational services (including but not limited to domiciliary care, and day care services) to be provided to an individual or a household where the Strategic Director, Children, Adults and Families considers such a Contract to be in the best interests of an individual provided the cost of the Contract is within existing budgetary provision, and has been let in accordance with the Regulations where applicable;
 - 5.2.8 with OFSTED for the inspection of a school;
 - 5.2.9 with Care Quality Commission under section 85 (1) of the Health and Social Care Act 2008:

- 5.2.10 with Driver and Vehicle Licensing Agency and/or Driver and Vehicle Standards Agency with regard to Council owned or operated vehicles;
- 5.2.11 for the execution of mandatory works by statutory undertakers, where the statutory undertaker is the only body which can perform the works. (e.g. Northumbria Water specifically for water and sewerage infrastructure works, Northern Powergrid specifically for electricity infrastructure works, Network Rail specifically for works affecting the railway infrastructure etc.);
- 5.2.12 which forms part of a serial programme, in respect of which tender may be invited from a contractor which won the Contract for an earlier phase of the work provided that the combined value does not exceed the relevant Threshold;
- 5.2.13 which may be awarded in accordance with Regulation 12 of the Regulations
- 5.3 Any exemptions under Rule 5.2.1 to 5.2.13 must be recorded in writing, detailing the reasons for the application of the exemption and signed by a Strategic Director/ Service Director.
- 5.4 No member of the Council will enter either orally or in writing into any Contract on the Council's behalf.

6. Invitations to Tender and Negotiated Tenders

- 6.1 Where a Contract is to be procured by a tender, the Cabinet, or the Service Director, Corporate Commissioning and Procurement through this delegation, will adopt one of the following procedures:
- 6.1.1 Tenders may be invited by the Service Director, Corporate Commissioning and Procurement via the Approved Electronic System in accordance with the Regulations and giving at least seven days' notice. An advertisement may also be published in one or more local newspapers, a specialist, trade or professional journal if deemed necessary.
- 6.1.2 If the Contract value is below the relevant Threshold as set out in Regulation 5 of the Regulations, tenders may be invited by the Service Director, Corporate Commissioning and Procurement (without advertisement) from a reasonable number of capable contractors. Consideration should be given as to whether or not local contractors can fulfil the requirements of the Contract. If it is considered that Local Contractors can fulfil the Contract requirements, then at least two Local Contractors should be invited to tender.
- 6.1.3 Where an approved list of contractors or dynamic purchasing system is maintained by the Council for contracts under the relevant Threshold, it will be managed by the Service Director Corporate Commissioning and Procurement and, tenders or quotations may be invited from all the contractors on the list, or from those of them selected by the Cabinet or by an officer using a method approved by the Cabinet. The approved list will be

reviewed at least once every five years, and where necessary an advertisement inviting inclusion in the list will be published via the Approved Electronic System and on Contracts Finder. A similar advertisement may also be published in one or more local newspapers and/or specialist, trade or professional journals.

6.1.4 Where the Contract forms part of a serial programme, a tender may be invited from a contractor who won the contract for an earlier phase of the work provided the combined value does not exceed the relevant Threshold.

6.1.5 A tender may be invited from a contractor already engaged by the Council, if that is in the Council's interests provided that the combined value does not exceed the relevant Threshold.

6.2 The invitation to tender will specify that all tenders must be submitted electronically through the Approved Electronic System unless it is not appropriate in the circumstances to do so in which case the invitation to tender shall specify clearly the alternative submission method to use

7. Opening of Tenders

7.1 All electronic tenders shall be held securely and unopened until after the time limit set for submitting them has expired.

7.2 All electronic tenders and all envelopes containing tenders for the same contract shall as far as possible be opened at the same time.

7.3 Any tender received after the deadline for the receipt of tenders cannot be considered, unless the other tenders have not yet been opened and the Strategic Director, Corporate Services and Governance is satisfied that:

7.3.1 in the case of an electronic tender, the tender could not have been the deadline for reasons outside the tenderer's control; or

7.3.2 in the case of a paper-based tender, the tender was posted in sufficient time for it to have been received by the deadline in the ordinary course of post.

8. Evaluation of Tenders

8.1 All tenders that are subject to the Regulations must be evaluated in accordance with the provisions of the Regulations and all tenders and quotations must aim to secure a Contract that is the most economically advantageous to the Council. The Service Director, Corporate Commissioning and Procurement will manage all tender evaluation processes.

8.2 Award criteria must be clearly set out in the invitation to tender or equivalent documentation together with the weighted scoring methodology.

8.3 A tender for a contract other than the most economically advantageous, may not be accepted without a record of the decision and the reason for it being made in the minutes of the next meeting of the Cabinet.

8.4 All other tenders for Contracts up to £250,000 in value may be accepted by a manager in consultation with the Service Director, Corporate Commissioning and Procurement.

9. **Alterations**

9.1 Where a tenderer identifies an error in its tender after submission but before the closing date for receipt of tenders, it may submit a revised tender. In such a case only the latest tender submitted will be evaluated.

9.2 Where an examination of competitive tenders reveals an error or discrepancy which would affect the sum payable by or to the Council, in a tender which might otherwise be accepted, the tenderer must be given the opportunity of confirming or withdrawing its tender. Where the Strategic Director, Corporate Services and Governance is satisfied that the error or discrepancy is an arithmetical error, the tenderer may be given the opportunity to correct it.

10. **Form and Content of Contracts**

10.1 No Contract above £25,000 in value shall be entered into unless the form and content has first been approved by the Strategic Director, Corporate Services and Governance or on his/her behalf pursuant to a written delegated authority and must be executed on behalf of the Council by the Strategic Director, Corporate Services and Governance or on his/her behalf pursuant to a written delegated authority.

10.2 Every such Contract will specify the work to be carried out, or the goods or services to be provided, the price to be paid (including any discounts), and the timetable for performing the contract.

10.3 Where a Strategic Director considers that the Council should require security for the performance of a contract above £100,000 in value, he/she will, after consulting the Strategic Director, Resources and Digital and the Strategic Director, Corporate Services and Governance, specify in the conditions of tender the nature and amount of the security (whether a bond or otherwise).

11. **Non-Commercial Matters**

11.1 When dealing with any aspect of contracting the Cabinet, any committee or other body of the Council, or manager acting under delegated powers, must not take account of matters defined as 'non-commercial' by Section 17 of the Local Government Act 1988 as amended by the Equality Act 2010 and the Public Services (Social Value) Act 2012

<http://www.legislation.gov.uk/ukpga/1988/9/section/17>.

12. **Termination of Contracts**

- 12.1 No Contract shall be terminated early without prior consultation with the Strategic Director, Corporate Services and Governance and Strategic Director, Resources and Digital to understand the legal and financial impact of the termination.

13. **Invitation and Opening of offers for the purchase of Council Land or Buildings**

- 13.1 Where Council land or buildings are to be sold by sealed offer the invitation must state that offers are to be submitted to the Chief Executive by the appointed time in the plain envelope provided, marked 'Offer' followed by the appropriate reference, and without any mark revealing the sender's or bidder's identity. Alternatively electronic tenders may be received via the approved electronic portal.
- 13.2 All electronic tenders and all envelopes containing offers will be held by the Chief Executive until they are opened.
- 13.3 All electronic tenders and all envelopes containing offers for the same property received by the appointed time will be opened together by a representative of the Strategic Director, Corporate Services and Governance and a representative of the Chief Executive.
- 13.4 Any tender containing an offer received after the appointed time will be opened in accordance with Rule 7.3 and the circumstances will be reported to the Cabinet.

14. **Common Seal of the Council**

- 14.1 The Common Seal will be affixed to those documents which as a matter of law or in the opinion of the Strategic Director, Corporate Services and Governance should be executed as a deed. The affixing of the Common Seal will be attested by the Mayor or Deputy Mayor and by the Chief Executive, or Strategic Director, Corporate Services and Governance or on his/her behalf pursuant to a written delegated authority.

EMPLOYEE RECRUITMENT RULES

1. Recruitment and Appointment

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are related to any existing councillor or senior employee of the Council, and if so to state the name of the councillor or employee concerned, his or her relationship to the candidate and the position he or she holds.
- (ii) No candidate so related to a councillor or an employee will be appointed without the authority of the relevant Strategic Director or an employee nominated by him/her.

(b) Seeking support for appointment

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint the head of paid service or a chief officer and it is not proposed that the appointment be made exclusively from among their existing employees, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the post concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. Appointment of Head of Paid Service, Chief Officers and Deputy Chief Officers

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Special Appointments Committee.
- (b) Appointment of the Director of Public Health will be made acting jointly with the Secretary of State and in accordance with such special rules as may be prescribed in statute or guidance.
- (c) Appointments of Chief Officer posts will be made as follows:
 - (i) by the full Council, on the recommendation of the Cabinet and the receipt of a report from the Chief Executive, where it is proposed to appoint an existing employee to a Chief Officer post as part of a reorganisation of the service or services concerned;
 - (ii) by the Special Appointments Committee, when it is considered appropriate to fill a vacant Chief Officer post by appointing an existing employee and no reorganisation is involved;
 - (iii) by the Special Appointments Committee, where it is not proposed that the appointment be made exclusively from among existing employees of the Council.
- (d) Appointment of Deputy Chief Officers is the responsibility of the Head of Paid Service or his/her nominee.
- (e) An offer of appointment in paragraphs (a) (b) and (c) above may not be made until the following steps have been taken:

Step 1 – the appointing body or appointing officer ('the appointer') notify the proper officer of the name of the person to whom they wish to offer the appointment, with any other details they consider relevant;

Step 2 – the proper officer notifies every Cabinet member of

- the name of the person whom the appointer wishes to appoint, with any other details that they may have supplied;
- the period within which any objection to the appointment must be made by the leader on behalf of the Cabinet;

Step 3 – one of the following conditions is satisfied:

- the Leader notifies the appointer that neither he/she nor any other Cabinet member has any objection to the appointment;
- the proper officer notifies the appointer that he/she has received no objection, within the specified period, from the Leader;
- the appointer is satisfied that any objection from the Leader is not material or not well-founded.

4. Other appointments

Officers below Deputy Chief Officer

Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.

5. Disciplinary Action

- Suspension.** The head of paid service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- Independent person.** No other disciplinary action may be taken in respect of any of those employees except in accordance with the procedure set out in Paragraph 6 and the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which require the involvement of independent persons.
- Councillors** will not be involved in disciplinary action against any employee below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or in their capacity as a member of the Personnel Appeals Committee when hearing appeals in accordance with the Council's disciplinary, capability and related procedures.

6. Dismissal of Statutory Officers

A Statutory Officer may not be dismissed unless the following procedure is complied with:

- The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- The Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with the following priority order:
 - A relevant independent person who has been appointed by the Council and who is a local government elector.

- b. Any other relevant independent person who has been appointed by the Council.
 - c. A relevant independent person who has been appointed by another authority or authorities.
- (iii) The Council is not required to appoint more than two relevant independent persons but may do so.
- (iv) The Council must convene at least 20 working days before a meeting of the Full Council to consider whether or not to approve a proposal to dismiss a statutory officer.
- (v) Before taking a vote at a meeting of the Full Council on whether or not to approve such a dismissal, the Council must take into account, in particular:
 - a. Any advice, views or recommendations of the Panel.
 - b. The conclusions of any investigation into the proposed dismissal.
 - c. Any representations from the Statutory Officer.
- (vi) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Committee must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.

7. Dismissal of Chief Officers, Director of Public Health and Deputy Chief Officers

Notice of dismissal of a chief officer or a deputy chief officer may not be given until the following steps have been taken:

Step 1 – the Council body or employee who is empowered to effect the dismissal (“the dismissor”) notify the proper officer of the name of the person whom they propose to dismiss, with any other details they consider relevant to the dismissal.

Step 2 – the Proper Officer notifies every Cabinet member of:

- the name of the person whom the dismissor wishes to dismiss, with any other details that they may have supplied;
- the period within which any objection to the dismissal must be made by the leader on behalf of the Cabinet.

Step 3 – one of the following conditions is satisfied:

- the leader notifies the dismissor that that neither he/she nor any other Cabinet member has any objection to the dismissal;
- the proper officer notifies the dismissor that he/she has received no objection, within the specified period, from the leader;

- the dismissor is satisfied that any objection from the leader is not material or not well founded.

Any objection must be exercised reasonably and with due regard for equal opportunities, following consultation with the monitoring officer.

In the case of the Director of Public Health the Secretary of State for Health is required to be consulted before dismissal can take place.

8. Dismissal of other employees

Councillors will not be involved in the dismissal of any employee below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or in their capacity as a member of the Personnel Appeals Committee when hearing appeals in accordance with the Council's disciplinary, capability and related procedures.

9. Definitions

In these Rules:

'chief officer' means a strategic director, or a director but excluding a statutory officer;

'deputy chief officer' means a deputy strategic director or service director;

'proper officer' means the Service Director, Human Resources and Workforce Development;

'panel' means a committee set up in accordance with Paragraph 6 and The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015;

'relevant independent persons' means any independent person who has been appointed by the authority under s28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another authority;

'statutory officer' means the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

PART 5

CODES AND PROTOCOLS

CODE OF CONDUCT FOR MEMBERS OF GATESHEAD COUNCIL

Preamble

The Council is responsible for a wide and varied range of important services. The proximity of the Council's services to local people means that decisions can directly affect the quality of life of our residents. High standards of conduct within the Council are therefore necessary at all times to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Gateshead residents have a high expectation of councillors and the way in which they should conduct themselves. The Council expects all councillors to meet those expectations by ensuring that councillor conduct is above reproach. This Code of Conduct plays a vital role in setting out, openly and clearly, the standards councillors must apply when undertaking their Council duties (and to an extent in their private life). It is vital that the Code gives assurance to local people that their elected members are acting in accordance with the highest ethical standards.

Statement of Councillors

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

The Principles of Public Life

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Approach to Compliance with the Code of Conduct

The Council expects councillors to comply with the spirit and not just the letter of the Code of Conduct.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or coopted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

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

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council
- you are claiming to act as a councillor and/or as a representative of your council
- you are giving the impression that you are acting as a councillor and/or as a representative of your council
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. *Respect*

As a councillor:

1.1 I treat other councillors and members of the public with respect. I can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. I will not, however, subject individuals, groups of people or organisations to personal attack.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. *Bullying, harassment and discrimination*

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. *Impartiality of officers of the council*

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. *Confidentiality and access to information*

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**

- iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
- iv. **the disclosure is:**
 - 1. **reasonable and in the public interest; and**
 - 2. **made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. **I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. *Disrepute*

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. *Use of position*

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. *Interests*

As a councillor:

9.1 I register and declare my interests.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

The Appendix sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. *Gifts and hospitality*

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.

7. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

8. Where a matter arises at a meeting which *affects* –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to declare under Disclosable Pecuniary Interests you must disclose the interest.

9. Where the matter affects the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]

<p>Sponsorship</p>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<p>Contracts</p>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.</p>
<p>Land and Property</p>	<p>Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<p>Licences</p>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>

Corporate tenancies	Any tenancy where (to the councillor's knowledge) — (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where — (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either — (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;	
Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which you are a member or in a position of general control or management.	

DEVELOPMENT MANAGEMENT – PROTOCOL ON GOOD PRACTICE

1. INTRODUCTION

- 1.1 This Protocol on Good Practice sets out principles to guide councillors in dealing with planning. It applies to all members of the Council who may become involved in planning and development, and also contains special advice for members of the Planning and Development Committee.
- 1.2 The Protocol on Good Practice supports (but does not form part of) the Code of Conduct for Members of Gateshead Council, which members must observe at all times. The Code of Conduct for Councillors avoids reference to specific functions of the Council, such as planning, but has direct relevance to councillors' conduct in relation to their involvement in the planning process. Councillors are therefore recommended to consider carefully the provisions of both the Code of Conduct for Councillors, and this Protocol, in relation to their involvement in development management matters.
- 1.3 The Council must act fairly and reasonably in all its dealings. Planning matters in particular can sometimes raise difficult issues. Because planning permission can increase – often very substantially – the value of land, people seeking permission may try to put pressure on decision-makers. At worst, they may behave corruptly. Also, planning issues can be emotive because they affect individuals' quality of life. A disappointed applicant or objector can all too easily form the belief that he or she lost because a member had been subjected to undue influence. It is important, therefore, that the Council is open and transparent in its decision-making on planning matters.
- 1.4 Councillors exercise two roles in the planning system: they determine applications (arriving at a decision to grant or refuse permission by using planning criteria and by excluding non-planning considerations), and they act as representatives of public opinion.
- 1.5 This dual role creates tensions, and councillors may find it difficult to strike the balance between listening to the community and making decisions on planning grounds. However, this does not mean that members who are involved in the planning process must isolate themselves from the people they were elected to represent.
- 1.6 It does mean that the Council needs to ensure its planning procedures accord with best practice; that those procedures are set out in a code which is accessible to councillors, staff and members of the public; and that councillors receive training in the planning system.
- 1.7 Any investigation by the Local Government Ombudsman into a complaint of maladministration against the Council as Local Planning Authority, or any internal

investigation of a complaint under the Corporate Complaints Procedure, would be likely to include consideration of whether this Protocol was observed by members.

2. KEY PRINCIPLES

- 2.1 There are two key principles to follow. The first principle is that, in deciding whether or not to grant planning permission, the Planning and Development Committee must act reasonably. This includes:
- councillors not putting the interests of their constituents above their judgement of what is best for the community as a whole;
 - placing due weight on all the facts and arguments, avoiding preconceived ideas and pre-determined approaches, and giving full consideration to all sides;
 - not taking irrelevant or improper considerations into account (e.g. refusing planning permission because of disapproval of, or support for, the person or organisation applying for it); and
 - having sound reasons for the decision taken.
- 2.2 This does not mean that the Committee must always “rubber-stamp” officers’ recommendations, but if it goes against advice the grounds on which the decision is reached must be made clear and must relate to planning considerations. Local opposition to, or support for, a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded on valid planning reasons which can be substantiated by the facts.
- 2.3 The Strategic Director, Economy, Innovation and Growth or the Strategic Director, Corporate Services and Governance are available to give advice, prior to or at Committee meetings, on what might constitute valid planning grounds for agreeing, imposing conditions on, or refusing planning consents. (The Council is legally required to give reasons for decisions to refuse a planning application).
- 2.4 Annex A to this Protocol lists some factors which are sometimes raised in discussion, but are not valid planning reasons and should not be taken into account in making decisions.
- 2.5 The second principle is that the Council must avoid maladministration. This generally refers to the process by which the decision is taken (and how that process appears to the outside world) rather than the decision itself. It covers such things as failure to be impartial and failure to consider all the facts. For the individual councillor, this means being cautious in dealing with applicants and people making representations, so that both sides are dealt with fairly. Councillors must not appear to have been unduly influenced or to have a “closed mind”. It is also vital to observe the Councillors’ Code of Conduct as a breach of the Code can amount to maladministration.

- 2.6 If the Council, through the Planning and Development Committee, fails to act reasonably, then a person who is aggrieved by the decision can apply to the High Court for judicial review. This could mean that the Court overturns the decision and possibly awards substantial damages against the Council.
- 2.7 Allegations of maladministration are investigated by the Local Government Ombudsman. If he/she finds that maladministration has occurred, the Council will be required to publish his/her findings and may also be asked to compensate the complainant. A finding of maladministration can be made against the Council even where the actions giving rise to that finding are those of a single member.

3. WHAT THIS MEANS FOR COUNCILLORS

All Councillors

- 3.1 The following guidelines apply to all councillors. They are intended to translate these principles into practical advice, and to help members deal with a range of situations that may arise.
- (i) You should always think carefully about how you deal with anyone who approaches you about a planning application. This may be an applicant or his/her agent, an objector, a supporter or someone simply requiring information about an application or proposal. It is always open to you to refer the person to the Service Director, Climate Change, Compliance, Planning and Transport, or the appropriate member of their staff, and you would be well-advised to do this if you feel that anyone is trying to put you under undue pressure or influence you unfairly. In particular, you should not allow yourself to be pressured into giving an 'instant opinion' on the application.
- i. You should be particularly careful in dealing with any approaches you may personally receive from developers or their agents. They may attempt to put pressure on you in order to secure some expression of commitment. Again, members should always refer the person concerned to the Strategic Director, Economy, Innovation and Growth.
 - ii. Councillors should not meet with builders/developers or their agents unless accompanied by the Strategic Director, Economy, Innovation and Growth or his representative as this could be misconstrued.
 - iii. You should not accept gifts or hospitality from developers/agents in connection with your membership of the Committee as this might reasonably be interpreted as likely to influence your judgement. In addition, all councillors are reminded of their obligation under paragraph 17 of the Code of Conduct for Councillors regarding registration of gifts and hospitality over the value of £50.
- (ii) Nevertheless, as a councillor you are the representative, indeed the champion, of your community, and there will be times when you feel you must represent the community's views on a particular application.

Furthermore, the Planning and Development Committee's procedures allow applicants and objectors to enlist the help of their local councillor to speak on their behalf. They also allow councillors who are not members of the Committee to address it on any application so long as councillors can demonstrate that it affects their ward.

- (iii) This means that if you are not a member of the Planning and Development Committee, you are at liberty to address it either on your own account, or on behalf of an applicant or objector, provided you observe the Committee's procedures. (For example, you must give prior notice to the Chair, and you may not take part in the debate).
- (iv) If you are a member of the Planning and Development Committee, you should not close your mind to the outcome of an application before it is considered by the Committee, or give the impression that you have done so, even though you may hold strong views about it. You should bear in mind that your ward colleagues who are not members of the Committee will be better placed to undertake this role. Similarly, if the question arises of writing letters of objection (or support) to the Strategic Director, Economy, Innovation and Growth it would be more appropriate if these came from ward colleagues who are not on the Committee.
- (v) Whether or not you are a member of the Committee, anything you have to say on an application should be said openly at the Committee meeting. Councillors should not lobby the Chair or other members of the Committee behind closed doors, although ward councillors may discuss an application among themselves and with councillors for other affected wards.
- (vi) Councillors are not in a position to give instructions to officers about any planning application. Only the Planning and Development Committee or the Council can do that. For the same reason, until a formal decision is taken, any views you may express in discussion with other parties are personal and not the Council's, and you should make this clear. In addition, members are reminded of their obligation under paragraph 2(c) of the Code of Conduct, which requires them "not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council". Councillors should also avoid entering any premises or site in connection with a planning matter unless on a formal site visit. However, they may sometimes be asked by constituents to visit them in their homes, and on these occasions the question of a planning application (or objection or support) may be raised. You should be cautious about giving any commitment in these circumstances. Apart from anything else, you may only have heard one side of the story.

Members of the Planning and Development Committee

- 3.2 There are some specific Rules which you must observe when planning applications are being considered by the Planning and Development Committee:-

- (i) Even if you strongly support, or oppose, a particular application you must listen to all the arguments for and against it and weight them up carefully before casting your vote.
- (ii) It follows from this that you must not base your decision on any discussion that may have taken place in a political group meeting. To do so would imply that you have not come to the Committee meeting with an open mind, and that you were influenced by group discipline rather than the merits of the case. The Ombudsman has found maladministration in cases where members have been influenced by political group decisions in deciding planning applications.
- (iii) Make sure that you are not swayed by arguments which are not directly related to the merits of the planning application. For example, you should not vote against or for an application just because you are opposed to or support the aims of the organisation that is applying. Also it may sometimes happen that views expressed at the Committee meeting by applicants, objectors, or people who are in favour are not matters which the Committee can properly take into account. The officers will advise on this.
- (iv) If you intend to reject the officer's recommendation, you should make sure that your reasons for doing so are clearly expressed and understood by your colleagues. Furthermore, your reasons must be valid planning reasons, and you should seek advice on this if you are not sure. Reasons will need to be recorded in the minutes.
- (v) You must comply with the requirements of the law, and the Code of Conduct on disclosure of interests. Annex B sets out some examples of how the Code of Conduct works in practice.

Site Visits

- 3.3 Site visits will be arranged in accordance with the new Planning and Development Committee Site Visit Procedure and Protocol. Annex D outlines the Procedures and Protocols for Planning and Development Committee Site Visits.

Public Meetings

- 3.4 There will be occasions when public meetings are called to discuss sensitive planning applications. This can place members in a difficult position, particularly where it may be necessary to champion the views of constituents. This would be best undertaken by those ward members who are not on the Committee, leaving councillors who are on the Planning and Development Committee to listen carefully to what is said at the public meeting but to refrain from expressing a firm opinion on the proposals. The Council has a protocol on public meetings (annex 3c to the Constitution) and this should be observed.

Press Comments

- 3.5 Comments should accord with the principles of this code and in particular must not create the impression that members have prejudged the planning application. The Council's corporate communications team are available on telephone number 433 3544 to assist councillors in their dealings with the media.

Planning Appeals

- 3.6 Where a public inquiry is held to consider an appeal, all councillors should contact the Strategic Director, Corporate Services and Governance and/or the Strategic Director, Economy, Innovation and Growth before making representations and certainly before attending the inquiry. If councillors present evidence on immaterial considerations there is a risk that the Council's case will be undermined.

Development Proposals from Councillors and Officers

- 3.7 As there is a risk of allegations of impropriety in relation to these applications, it is vital they are dealt with openly, fairly and in a way that gives no grounds for accusations of favouritism.

Therefore, serving councillors submitting their own proposals or who act as agents for others should play no part in the decision-making process for those proposals, which should be reported to Planning and Development Committee. Similarly, applications by officers at Service Director level or above and officers in the Development Management and Enforcement Teams should be reported as main agenda items.

A councillor on the Committee who submits an application will have a prejudicial interest under the Code of Conduct when it is considered. The councillor must therefore declare the interest and withdraw from any consideration of the matter.

The Code of Conduct also provides at paragraph 5 (a) that a member must not use their position improperly to confer on or secure for themselves an advantage. However, this does not mean that a councillor should have any fewer rights than a member of the public in seeking to justify their application to an officer in advance of consideration of it by the Committee.

4. CONCLUSION

- 4.1 Observing this protocol will go a long way towards achieving the Council's goal of an open and inclusive planning system. It will increase public confidence; reduce the likelihood of Council decisions being challenged; and help councillors in dealing with what may be difficult situations.
- 4.2 The purpose of the protocol is to ensure that justice is not only done but is seen to be done.

4.3 If you require any further advice, please contact the Strategic Director, Corporate Services and Governance who will be happy to help.

PLANNING CONSIDERATIONS

In determining planning applications, the Planning and Development Committee can only take account of valid planning reasons.

The following list gives some examples of factors which are sometimes raised in discussion, but are not valid planning reasons and should not be taken into account in making decisions.

- the personal circumstances of an applicant
- the fact that development has already begun or been completed
- “trade objections” from potential competitors
- “moral objections” to uses such as public houses, amusement arcades and betting offices
- the fear that property may be devalued because of an adjoining development
- matters controlled under Building Regulations such as structural stability of the property, capacity of private drains
- matters controlled under other legislation such as alcohol, gaming and waste licensing or pollution regulations
- allegations that the proposal may affect private rights such as rights of way, access for maintenance and boundary disputes (these are usually private matters on which legal advice may be needed).

EXAMPLES OF THE APPLICATION OF THE CODE OF CONDUCT

(NB: These apply to Committee members and non Committee members)

1. *You are a remunerated director of a company which has submitted a planning application to develop some surplus land which it owns.*

Company directorships must be registered in the Register of Councillors' Interests. You therefore automatically have a personal interest in the matter and must disclose it at the commencement of consideration of the matter (if not in advance of the meeting). Because you receive some remuneration as a director, it is also likely to be a prejudicial interest and you must therefore withdraw from the meeting for the duration of any consideration of the matter.

2. *Your spouse or partner holds shares to the nominal value of £2,000 in a telecoms company which has applied for planning permission to erect a telecommunications mast.*

The nominal value of the shares is under the £5,000 threshold specified in paragraph 8(1)(c). However, as development management decisions can often have a significant impact on the value of the land concerned, or the interests of the developer, a shareholding with a nominal value of £2,000 in shares issued by the developer is likely to be seen as sufficient potentially to affect your spouse's/partner's financial position. You should therefore declare a personal and prejudicial interest, and withdraw from the meeting while the application is being considered.

3. *An application is to be considered for a new supermarket development. Your brother owns a small business which could be seriously adversely affected if permission is granted.*

You have a personal interest in the matter because a relative's financial position can reasonably be regarded as being affected to a greater extent than other council tax payers, ratepayers or inhabitants of the Borough. In view of the fact that the potential impact on your brother's business is serious, it is also likely to be a prejudicial interest, and you must therefore declare the nature of your interest in the matter before it is considered, and withdraw from the meeting.

4. *You are a member of a golf club which applies for planning permission for an extension.*

A decision on the application could reasonably be regarded as affecting your wellbeing to a greater extent than other council tax payers etc. and is therefore a personal interest, which must be disclosed. On the basis that a member of the public with knowledge of the relevant facts would reasonably regard your membership as sufficiently significant so as to prejudice your judgement of the

public interest is also prejudicial, and you should therefore withdraw from the meeting before the item is discussed.

5. *You are appointed by the Council as a governor of a school. The school is the subject of a planning application to erect a fence around the school boundary.*

You must register your role as school governor as an interest in the Register of Councillors' Interests, under paragraph 15 of the Councillors' Code of Conduct. You therefore automatically have a personal interest in the matter, and this must be disclosed. Although paragraph 10(2)(c) provides that you may regard yourself as not having a prejudicial interest, the advice is that members should not sit on committees which determine applications (such as planning or licensing) from bodies on which they also serve, as a member of the public might think that the member's judgement was likely to be prejudiced.

SPEAKING AT PLANNING AND DEVELOPMENT COMMITTEE

General

- Speakers should arrive at the Planning and Development Committee meeting (normally the Bridges Room but not always) at least fifteen minutes prior to the meeting start time (normally 10 am but not always) and announce themselves to the Democratic Services officer.
- It should be noted that on occasion the location and time of the meeting may change and the onus is on the speakers to keep in contact with the Development Management department. The planning information officers will also try and contact speakers to notify them of any changes.
- The Chair of Committee will explain at the beginning of the meeting how the speaking procedures operate. An allocated area for speakers to present will be provided.
- Speakers will not be allowed to present to Committee and display matters (models etc.) and will not be allowed to hand around written material, photographs, plans etc. Speakers will not be allowed to display material on the PowerPoint display.
- Councillors will not consider the need for a site visit until after the presentation by officers and the presentation by speakers. If members do consider that a site visit is necessary (by vote) then the application will be deferred for the visit and that visit will be informed by the views of the speakers. All speakers who are on the list (including ward councillors) should speak at the first meeting as new speakers will not be allowed to speak when the Planning and Development Committee reconvenes after the site visit to consider the application.

The process of the meeting in terms of each application will be as follows:

1. Chair introduces the application item
2. Presentation of the application by the officer
3. Questions of officer(s) by Members of the Committee (if required)
4. Speakers invited to speak in order of Ward Councillors>Interested Third parties objecting>Applicant/Agent>Interested Third parties Supporters
5. Questions of speakers by members of the Committee (if required)
6. Members of the Committee debate the application (potentially further questions of officers as part of the debate)
7. A vote is taken

Speaking

Interested Third Parties

- If more than one objector or supporter wishes to speak then it is recommended that a single person be chosen to represent the objectors or supporters of an application.

- A maximum of two speakers will be allowed to speak to object or support an application only where they are to raise **distinctly separate** issues. Speakers will not be allowed to raise the same issues, as the Committee members will already have heard these issues. If a Ward Councillor is speaking on behalf of a person they will be treated as one of the interested party speakers not as a ward Councillor as he/she will be speaking for someone else not as a Ward Councillor.
- A speaker (objector or supporter) will not be allowed to speak for more than **four minutes**. Therefore if two speakers are speaking this will be a maximum total of **eight minutes**.
- Speakers are not allowed to question members of the Committee, officers or the applicant (or their agent) but they may be asked questions by Members of the Committee following their presentation and should remain in situ to receive any questions.

Applicants (or their appointed agents)

- If an objector speaks then the applicant (or their appointed agent) will be allowed to respond. The applicant will be given the same time as the objectors (**for example if two objectors speak for eight minutes in total then the applicant (or their appointed agent) will be given eight minutes**)
- An applicant (or their appointed agent) will be allowed to speak in the case where there are no objectors speaking but their application is recommended for refusal. In this case the applicant (or appointed agent) will be given **four minutes**.
- In cases where objectors who are on the speakers list do not attend the meeting and the applicant/agent has attended to speak (where the recommendation is to grant consent) in response the applicant/agent will not be allowed to speak unless the Chair considers it necessary to provide any clarification of issues to the Committee.

Ward Councillors

- Ward Councillors speaking either for or against a proposal within their ward will be given **four minutes** and will be allowed to speak first on an application.
- For the purposes of clarity Ward Councillors speaking will be considered separately from third parties and applicants. Ward Councillors will not be allowed to speak so as to represent a person (or persons) who is already speaking. Ward Councillors can, of course represent their own views as well as those of people in their ward.
- So for example, if a Ward Councillor speaks against a proposal for four minutes and then two objectors speak for eight minutes the applicant (or their appointed agent) will only be able to respond for **eight minutes** (not twelve).

- The reason for this is that Ward Councillors can also speak in support of a proposal and in the interests of fairness this would **not** increase the time given for objectors to speak (from eight to twelve minutes).
- On occasion there would be a Ward Councillor speaking in favour of a proposal and another Ward Councillor speaking against a proposal (**four minutes each**).
- Councillors wishing to speak on an application that is not in their ward by representing third parties will be considered under the Rules above for interested third parties and would be counted as one of the interested third party speakers not as a Ward Councillor.
- Councillors wishing to speak on behalf of the Council when the Council is applicant will be considered under the Rules of the applicant above.

A Working Example

A Ward Councillor is speaking against the proposal. **Maximum four minutes**. Two objectors wish to speak raising separate issues. **Maximum eight minutes**. An applicant wishes to respond. **Maximum eight minutes**.

Total: Maximum Twenty minutes

The Chair

The Committee is run by the Chair of the Planning and Development Committee (or the Vice Chair in the absence of the Chair) and the discretion remains with the Chair to amend and vary the above procedures and protocols if it is considered there are **very special circumstances** warranting this.

ADMINISTRATION

Administration for Interested Third Parties

1. The proposed administration of the system for customers is as follows:
 - Development Management will write to neighbours and landowners who may be affected by development proposals giving 21 days for a response. In the standard letter it will be made clear that **if** the application is to be determined by Planning and Development Committee and **if** the recipient wishes to speak at the Committee they must confirm this in writing (e-mail address being:- Enquiriesdevcon@gateshead.gov.uk) and include their name, address and daytime telephone number and confirmation as to whether they object to or support the proposal.
 - On receipt of a consultation response with a request to speak, the planning information officers log the customer details against the planning application. With regard to petitions with a request to speak the author of the letter (or first name on the petition) will be recorded as the speaker. The speakers' list will be compiled on a first come first served basis with a maximum of two speakers allowed to speak for or against a proposal. Where more than two persons want to speak to object or support then the planning information officers shall give the name and address details of those already logged to speak to subsequent persons who request to speak so that both objectors and supporters can confirm between themselves who the two nominated people shall be.
 - Planning applications that are to be reported to Planning and Development Committee are not finally confirmed on the agenda until a week prior to the meeting (normally a Wednesday).
 - The planning information officers will contact those persons who have requested to speak a week prior to the meeting (normally a Wednesday) by telephone and those persons must confirm to the planning information officers they still intend to speak by 5pm the next day (normally a Thursday) or confirm a substitute person and give their name and day time contact details to the planning information officer. Those who are confirmed as speakers will be sent a copy of (or directed to the Council's website) the Rules for speaking procedures in advance of the meeting (see leaflet "Having Your Say! A guide to Planning and Development Committee meetings")
 - The next day (normally a Friday) the completed speakers list will be sent to Corporate Services and Governance who will add any declarations of interest that are known at that time before providing the finalised speakers list for circulation to the Chair, Vice Chair and lead officers two days prior to the Planning and Development Committee meeting (normally a Monday).

Administration for Applicants (and their appointed agents)

2. The proposed administration of the system for applicants/agents is as follows:

- If an application is to be reported to Planning and Development Committee and is recommended for refusal then the applicant or their agent will be allowed to speak even in the absence of any registered speakers against the application. In these cases it is the duty of the application case officer to inform the applicant (or appointed agent) that their application is to be recommended for refusal and to which Committee and the onus is then on the applicant (or their appointed agent) to confirm **in writing** (e-mail address being:- enquiriesdevcon@gateshead.gov.uk) their intention to speak by 5pm on the Thursday prior to that Committee. The applicant (or their appointed agent) will be sent a copy of (or directed to the Council's website) the Rules for speaking procedures in advance of the meeting (see new leaflet "Having Your Say! A guide to Planning and Development Committee meetings").
- Where there are objections to an application and there are requests to speak against the application the applicant (or their appointed agent) will be invited to respond. The planning information officer will contact the applicant (or agent) once a request to speak against an application is received to ask them if they wish to respond and if so for them to confirm **in writing** (e-mail address being:- enquiriesdevcon@gateshead.gov.uk) their intention to speak by 5pm on the Thursday prior to that Committee. The applicant (or their appointed agent) will be sent a copy of (or directed to the Council's website) the Rules for speaking procedures in advance of the meeting (see new leaflet "Having Your Say! A guide for Planning and Development Committee meetings")

Administration for Councillors

3. The proposed administration of the system for Councillors is as follows:

- Ward Councillors are sent the weekly list of all planning applications (hard copy and/or e-mail). Ward Councillors who wish an application to be determined at Planning and Development Committee which is within their ward must make such as request **in writing** (e-mail address being enquiriesdevcon@gateshead.gov.uk).
- Objections or Support for planning applications must also be made in writing (e-mail address being enquiriesdevcon@gateshead.gov.uk)
- Ward Councillors wishing to speak at Planning and Development Committee must make such a request **in writing** and confirm whether they object to or support the application (e-mail address being:enquiriesdevcon@gateshead.gov.uk).

Ward Councillors should clarify whether they are speaking in their capacity as Ward Councillor or as a representative of an objector/supporter or applicant.

- Planning applications that are to be reported to Planning and Development Committee are not finally confirmed on the agenda until a week prior to the meeting (normally a Wednesday)
- The planning information officers will contact Ward Councillors who have requested to speak a week prior to the meeting (normally a Wednesday) by telephone and Ward Councillors must confirm to the planning information officers they still intend to speak by 5pm the next day (normally a Thursday) or Ward Councillors can confirm a substitute ward member at that time. Those who are confirmed as speakers will be sent a copy of (or directed to the Council's website) the Rules for speaking procedures in advance of the meeting (see new leaflet "Speaking at Planning and Development Committee")
- Councillors wishing to speak on behalf of third parties on an application where they are not their Ward Councillor will be considered under the procedures above for customers of the service (under Interested Third parties) and will be allowed to speak so long as they are not representing the person who is already speaking on the application.

PLANNING AND DEVELOPMENT COMMITTEE SITE VISITS PROCEDURES AND PROTOCOLS

Introduction

Site visits by the Planning and Development Committee can be helpful in reaching a decision on issues where site circumstances are fundamental to the decision. It can give the parties involved confidence that all aspects of a proposal have been carefully considered by the Local Planning Authority. However, councillors should be aware that Committee site visits can cause delay and additional costs, for both applicant and the Council, and should only be used where the expected benefit is substantial.

In accordance with the Lees Report¹ into the planning procedures of North Cornwall, it is advised that Committee site visits should:

- focus precisely on the observation of site factors which are relevant to the decision
- not be an opportunity for lobbying, public address, submission of new information;
- not be misused purely as an opportunity to defer consideration (if there is a good reason to defer consideration of an application, this should be done openly at the Committee meeting)
- involve the whole Committee
- always involve officer representation
- be carefully conducted so that councillors cannot be accused of bias to any of the parties involved
- be monitored in terms of cost and impact on decisions.

Purpose

The Planning and Development Committee will decide whether a Committee site visit is required or not in respect of a specific planning application. The reasons for each site visit must be established and clearly recorded in the minutes of the meeting.

The purpose of a Committee site visit is to allow Committee members to see the actual circumstances of an application 'on the ground' and to gain further information on a specific issue(s).

All members of the Committee should endeavour to attend site visits to ensure they are fully apprised of all the relevant information prior to making a decision on the application concerned but if all Members cannot attend this will not be a reason to delay determination.

When to have a site visit

Planning and Development Committee Site Visits should only take place where:

- a) The visual, verbal and written material is insufficient to convey a clear impression of the impact and affects of the site and its surroundings.

¹'Enquiry into the Planning System in North Cornwall District' (1993). HMSO, London.

- b) Specific impacts/effects such as landscape, visual amenity, highways and proximity to properties need to be inspected because of the site's location, topography and/or relationship with other sites/facilities which cannot be addressed in text form.
- c) The proposals raise new or novel issues on site which need to be inspected.

Site visits should not be undertaken simply at the request of the applicant, objectors or other interested parties whether expressed in writing or during public speaking.

No site should be revisited within a period of two years since the last visit unless there are exceptional circumstances, changes since the last site visit, a number of new members on the Committee or other factors which would require a further site visit.

When moving a site visit vote the member of the Planning and Development Committee should clearly state the reason why they feel a visit is required prior to a Committee vote being taken as to whether or not to have a visit.

Committee site visits in advance of Committee considering an application

There are a number of complex applications where it is evident from the start of the determination process that a site visit would be beneficial and to proceed to Committee without first carrying out such an inspection would potentially delay an application unnecessarily. This can also include schemes which are reliant on funding by a certain date and that funding could be in jeopardy if the application were deferred for a site visit at the intended Planning and Development Committee. In such cases the Development Manager will make a recommendation to the Planning and Development Committee (in the Committee cycle before the meeting at which it is intended to determine the application) that a site visit be undertaken prior to the application being placed on the Committee agenda. In such cases a schedule will be included in the relevant Committee agenda advising councillors of the details of the proposal together with the Officer's reasons for recommending an advance site visit.

On occasion the Chair of the Committee can use discretion to add site visits on to the schedule of visits where there are sound reasons for doing so that would benefit Committee business.

Organisation

Site visits will be organised in accordance with the following principles and procedures:

- The Planning and Development Committee will authorise site visits and will agree the reason(s) for the site visit.
- The following people will be invited to the site visit:
 - All Members of the Planning and Development Committee
 - The relevant ward councillors
 - The applicant/land owner and/or objectors but only where it is necessary to gain access to private land or property.
- No opportunity for speaking will be afforded to the agent/applicant or other parties e.g. Ward Members unless specifically requested by the Committee Chair in order to answer questions of fact.

- The council officer in attendance will present each planning application to be visited, in instances where it is considered necessary a second officer (usually the case officer and/or specialist officers from Transport and Highways) will attend the site visit.
- An officer from Democratic Services will also be present at the site visit.

Format of Committee Site Visits

Site visits should be conducted in a formal manner in compliance with the Human Rights Act 1998². On assembling at the site, at the time specified, the Committee Chair will control the proceedings and exercise complete discretion based on these guidelines to ensure that the event is properly conducted. The Chair will make introductions and outline to those present the procedures which will be followed highlighting:

- a) The purpose of the site visit;
- b) That any third parties cannot make representations at the visit but may point out particular features of interest which they consider the Committee should know;
- c) The need to address any questions through the Chair.

Councillors should stay close together and should not engage in discussion individually or in small groups with any third parties. Any request for councillors to express a view or offer of hospitality should be politely declined.

The planning officer in attendance will describe the development and point out/explain the issue(s) which councillors have come to view. It may be necessary for officers to comment in regard to specialist matters e.g. Transport and Highways.

Councillors should address any questions of clarification through the Chair to the officer(s) present. Questions should not be directed to the applicant or agent, ward councillors or any other third parties present. Should the Chair consider it appropriate, he/she may ask the agent/applicant or others present to respond to questions of fact only. These must always be directed through the Chair.

On some occasions the site conditions and material information will be able to be viewed by the Committee from the bus used to transport members to and from the visit and on those occasions the officer will present and answer questions from the bus.

Councillors with a prejudicial interest or those who won't take part in a vote for a planning application at Planning and Development Committee because of perceived lobbying should not attend or play any part in the Site Visit for that application.

Councillors should not express any views at the site visit about how they intend to vote, a Planning and Development Committee site visit is not a formal meeting of the Planning and Development Committee.

² Great Britain. *Human Rights Act 1998: Elizabeth II. Chapter 42.* (1998). London: The Stationery Office

Consideration of a planning matter following a Committee site visit

All members of the Planning and Development Committee are entitled to participate in the making of the decision when it is reported back to Committee. This includes any councillors who were unable to attend the site visit providing that councillor is satisfied they have sufficient information and understanding of the application to make an informed decision. Reference to the site visit will be made in the Officer's Committee Report simply to inform councillors and the public that a site visit has taken place (no formal findings will be reported back to the Planning and Development Committee).

REGULATORY COMMITTEE – PROTOCOL ON GOOD PRACTICE RELATING TO REGULATORY MATTERS

1. INTRODUCTION

- 1.1. This protocol sets out principles to guide members in dealing with licensing and registration matters. It applies to all members of the Council who may become involved in licensing and registration, and also contains special advice for members of the Regulatory Committee.
- 1.2. The protocol supports (but does not form part of) the Code of Conduct for Members of Gateshead Council, which councillors must observe at all times. The Code of Conduct avoids reference to specific functions of the Council, such as licensing, but has direct relevance to councillors' conduct in relation to their involvement in the licensing process. Councillors are therefore recommended to consider carefully the provisions of both the Code of Conduct, and this protocol, in relation to their involvement in licensing and registration matters.
- 1.3. The Council must act fairly and reasonably in all its dealings. Licensing and registration matters in particular can sometimes raise difficult issues. Because the grant of a licence can increase – very often substantially – a person or organisation's income, applicants may try to put pressure on decision makers. Similar pressures may be exerted by objectors. Also, licensing issues can be emotive because they affect individuals' quality of life. A disappointed applicant or objector can all too easily form the belief that he or she lost because a member had been subjected to undue influence. It is important, therefore, that the Council is open and transparent in its decision-making on licensing matters.
- 1.4. Any investigation by the Local Government Ombudsman into a complaint of maladministration against the Council as a licensing body or any internal investigation of complaints under the Corporate Complaints Procedure would be likely to include consideration of whether this protocol was observed by councillors.

2. KEY PRINCIPLES

- 2.1. There are two key principles to follow. The first principle is that, in deciding whether or not to grant a licence or to register a person, the Regulatory Committee must act reasonably. This includes:-
 - councillors not putting the interests of their constituents above their judgement of what is best for the community as a whole;
 - placing due weight on all the facts and arguments, avoiding pre-conceived ideas and pre-determined approaches, and giving full consideration to all sides;
 - not taking irrelevant or improper considerations into account; and
 - having sound reasons for the decision.
 -
- 2.2. This does not mean that the Committee must always rubber-stamp officers' recommendations, but if it goes against advice then the grounds on which the decision is reached must be made clear. Local opposition to, or support for, an

application is not in itself a ground for refusing or granting a licence, unless that opposition or support is founded on valid reasons which can be substantiated.

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

3. **WHAT THIS MEANS FOR COUNCILLORS**

- 3.1. The following guidelines apply to all councillors. They are intended to translate these principles into practical advice, and to help members deal with a range of situations that may arise.
 - (i) You should always think carefully about how you deal with anyone who approaches you about a licence application. This may be an applicant, an objector, a supporter or someone simply requiring information about an application. It is always open to you to refer the person to the Strategic Director, Economy, Innovation and Growth, and you would be well-advised to do this if you feel that anyone is trying to put you under undue pressure or influence you unfairly. In particular, you should not allow yourself to be pressured into giving an 'instant opinion' on the application.
 - (ii) You should be particularly careful in dealing with any approaches you may personally receive from applicants. They may attempt to put pressure on you in order to secure some expression of commitment. Again, councillors should

always refer the person concerned to the Strategic Director, Economy, Innovation and Growth.

You should not accept gifts or hospitality from applicants or objectors in connection with your membership of the Committee as this might reasonably be interpreted as likely to influence your judgement. In addition, all Members are reminded of their obligation under Annex 4 of the Code of Conduct regarding registration of gifts and hospitality over the value of £50.

- (iii) Nevertheless, as a councillor you are the representative, indeed the champion, of your community, and there will be times when you feel you must represent the community's views on a particular application. The Regulatory Committee's procedures allow councillors who are not members of the Committee to address it on any application so long as councillors can demonstrate that it affects their ward.
- (iv) This means that if you are not a member of the Regulatory Committee, you are at liberty to address it either on your own account, or on behalf of an applicant or objector, provided you observe the Committee's procedures. (For example, you must give prior notice to the Chair, and you may not take part in the debate).
- (v) If you are a member of the Regulatory Committee, you should not close your mind to the outcome of an application before it is considered by the Committee, or give the impression that you have done so, even though you may hold strong views about it. You should bear in mind that your ward colleagues who are not members of the Committee will be better placed to undertake this role. Similarly, if the question arises of writing letters of objection (or support) to the Strategic Director, Economy, Innovation and Growth it would be more appropriate if these came from ward colleagues who are not on the Committee.
- (vi) Councillors are not in a position to give instructions to officers about any application. Only the Regulatory Committee or the Council can do that. For the same reason, until a formal decision is taken, any views you may express in discussion with other parties are personal and not the Committee's and you should make this clear. In addition, members are reminded of their obligations under paragraph 2 of the Code of Conduct, which requires them "not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of the Council".

Councillors should also avoid entering any premises or site in connection with an application. However, they may sometimes be asked by constituents to visit them in their homes, and on these occasions the question of a licence application (or objection or support) may be raised. You should be cautious about giving any commitment in these circumstances. Apart from anything else, you may only have heard one side of the story.

At the Regulatory Committee

- 3.2. There are some specific Rules which you must observe when applications are being considered by the Regulatory Committee:-
- (i) Even if you strongly support, or oppose, a particular application you must listen to all the arguments for and against it and weigh them up carefully before casting your vote.
 - (ii) It follows from this that you must not base your decision on any discussion that may have taken place in a political group meeting. To do so would imply that you have not come to the Committee meeting with an open mind, and that you were influenced by group discipline rather than the merits of the case. The Ombudsman has found maladministration in cases where members have been influenced by political group decisions in deciding planning applications, and the same principles apply to licence applications.
 - (iii) Make sure that you are not swayed by arguments which are not directly related to the merits of the application. For example, you should not vote against or for an application just because you are opposed to or support the aims of the organisation that is applying. Also, it may sometimes happen that views expressed at the Committee meeting by applicants, objectors, or people who are in favour are not matters which the Committee can properly take into account. The officers will advise on this.
 - (iv) If you are seeking to reject the officers' recommendation, you should make sure that your reasons for doing so are clearly expressed and understood by your colleagues. Furthermore, your reasons must be valid reasons, and you should seek advice on this if you are not sure. Reasons will need to be recorded in the minutes.
 - (v) You must comply with the requirements of the law, and the Code of Conduct on disclosure of interests.

4. CONCLUSION

- 4.1. Observing this protocol will go a long way towards achieving the Council's goal of an open and inclusive licensing system. It will increase public confidence; reduce the likelihood of Council decisions being challenged; and help councillors in dealing with what might be difficult situations.
- 4.2. The purpose of the protocol is to ensure that justice is not only done but is seen to be done.
- 4.3. If you require any further advice, please contact the Strategic Director, Corporate Services and Governance who will be happy to help.

LICENSING COMMITTEE – PROTOCOL ON GOOD PRACTICE RELATING TO THE LICENSING ACT 2003 AND GAMBLING ACT 2005

1. INTRODUCTION

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

2. KEY PRINCIPLES

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

- guidance issued by central Government
- the Licensing Authority's Statement of Licensing Policy

2.2 Councillors must

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

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

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

3. **WHAT THIS MEANS FOR COUNCILLORS**

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

- (i) You should always think carefully about how you deal with anyone who approaches you about a licence application. This may be an applicant, an objector, a supporter or someone simply requiring information about an application. It is always open to you to refer the person to the Licensing Officer or the appropriate member of his/her staff, and you would be well-advised to do this if you feel that anyone is trying to put you under undue pressure or influence you unfairly. In particular, you should not allow yourself to be pressured into giving an 'instant opinion' on the application.
- (ii) You should be particularly careful in dealing with any approaches you may personally receive from applicants. They may attempt to put pressure on you in order to secure some expression of commitment. Again, members should always refer the person concerned to the Licensing Officer. If you feel that the approach was inappropriate or improper, you should raise the matter with the Licensing Officer or the Strategic Director, Corporate Services and Governance.

You should not accept gifts or hospitality from applicants or objectors in connection with your membership of the Committee as this might reasonably be interpreted as likely to influence your judgement. In addition, all Members are reminded of their obligation under Annex 4 of the Code of Conduct for Members regarding registration of gifts and hospitality over the value of £50.

- (iii) Nevertheless, as a councillor you are the representative, indeed the champion, of your community, and there will be times when you feel you must represent the community's views on a particular application. The Licensing Committee will normally allow ward councillors to make representations at the Committee hearing on applications affecting their ward, provided they observe the Committee's procedures on giving notice. However this will not apply if you are personally affected by the application; in that case you will have a personal and prejudicial interest in the matter and may not make representations at the hearing, nor even attend it. (You may however ask someone to represent you).
- (iv) If you are a member of the Licensing Committee, you should not close your mind to the outcome of an application before it is considered by the Committee, or give the impression that you have done so, even though you may hold strong views about it. You should bear in mind that your ward colleagues who are not members of the Committee will be better placed to undertake this role. Similarly, if the question arises of writing letters of objection (or support) to the Licensing Officer it would be more appropriate if these came from ward colleagues who are not on the Committee.
- (v) Councillors are not in a position to give instructions to officers about any application. Only the Licensing Committee can do that. For the same reason, until a formal decision is taken, any views you may express in discussion with other parties are personal and not the Committee's and you should make this clear. In addition, councillors are reminded of their

obligation under paragraph 2 of the Code of Conduct, which requires them “not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of the Council”. In particular, members must not put Council employees under pressure to handle a licensing application in a particular way.

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

At The Licensing Committee

3.2 There are some specific Rules which you must observe when you are considering applications at a hearing of the Licensing Committee or a Licensing Sub-Committee:

- (i) You must avoid predetermination – that is, making up your mind about an application before the hearing, or giving the impression that you have made your mind up. You must listen to all the arguments for and against the application and weigh them up carefully before reaching your decision.
- (ii) You should consider whether any statement that you may have made could give the impression that you are not coming to the hearing with an open mind. Have you, for example, spoken out against adding to the number of licensed premises in the street or area in which the application that you are about to hear is located? if so, there is a risk of challenge on the grounds of bias and you should consider withdrawing from the hearing so that another member of the Licensing Committee can take your place.
- (iii) It follows from this that you must not base your decision on any discussion that may have taken place in a political group meeting. To do so would imply that you have not come to the hearing with an open mind, and that you were influenced by group discipline rather than the merits of the case. The Ombudsman has found maladministration in cases where members have been influenced by political group decisions in deciding planning applications, and the same principles apply to licence applications.
- (iv) Make sure that you are not swayed by arguments which are not directly related to the merits of the application. For example, you should not vote against or for an application just because you are opposed to or support the aims of the organisation that is applying. Also, it may sometimes happen that

views expressed at the Committee meeting by applicants, objectors, or people who are in favour are not matters which the Committee can properly take into account. The officers will advise on this.

- (v) You should also make sure that your reasons for arriving at a decision are clearly expressed and understood by your colleagues. Furthermore, your reasons must be valid in terms of the Licensing Objectives and the Statement of Licensing Policy and you should seek advice on this if you are not sure. Reasons for the Sub-Committee's decision will need to be recorded.
- (vi) You must comply with the requirements of the law, and the Code of Conduct on disclosure of interests. In particular, if you have a personal and prejudicial interest in an application, you must not take part in the hearing; you must declare the interest and withdraw from the meeting room. You may not remain in the meeting room, and you cannot represent the applicants or objectors at the hearing, or express any views on the matter at the hearing.
- (vii) If you are aware that an application in which you have a personal and prejudicial interest is coming up for a hearing, you should notify the Committee Administrator so that you are not selected for the Sub-Committee which will consider the application.

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

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

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

The Strategic Director, Corporate Services and Governance is available to give advice.

4. **CONCLUSION**

- 4.1 Observing this protocol will go a long way towards achieving the Council's goal of an open and inclusive licensing system. It will increase public confidence; reduce the likelihood of Council decisions being challenged; and help councillors in dealing with what may be difficult situations.
- 4.2 The purpose of the protocol is to ensure that justice is not only done but is seen to be done.

4.3 If you require any further advice, please contact the Strategic Director, Corporate Services and Governance who will be happy to help.

PROTOCOL FOR COUNCILLOR CALL FOR ACTION

Introduction

The “Councillor Call for Action” (CCfA) was introduced under section 119 of the Local Government and Public Involvement in Health Act 2007. The Police and Criminal Justice Act 2006 has also made provisions for a “Call for Action” regarding crime and disorder and community safety issues. The provisions in these Acts enable any member of the Council to refer to a relevant Overview and Scrutiny Committee any local government matter and any crime and disorder matter which affects their ward or constituents.

As the provisions in both Acts are essentially the same both types of CCfA will follow the same process.

Principles

1. As with other aspects of Scrutiny, the over-riding aim should be to resolve the issue in a way that benefits the people of Gateshead in a constructive and non-confrontational manner.
2. A councillor call for action should have a significant impact on local communities and there should be evidence that there is community support for the issue. For example, through involvement of local voluntary and community sector organisations or Gateshead Community Network.
3. In many cases the issue will affect more than one agency or partner, and therefore will require a multi-agency approach to seeking a solution. However, it may sometimes be appropriate to pursue a CCfA in relation to one agency, if it has not been possible to secure action by any other means.
4. If the issue affects an agency or organisation other than the Council, the Council should use existing influence and mechanisms to co-ordinate a response.
5. Formal council powers should not be used until all other avenues have been explored.
6. Councillor call for action should only be used as a last resort and councillors should have tried to resolve an issue through all other mechanisms available to them before pursuing this course of action. For example: Members Enquiries; the Corporate Complaints Procedure; raising the matter with the relevant Cabinet Member, the relevant themed partnership; and other statutory procedures. Consideration should also be given to whether the issue in question is already, or is about to become, the subject of a petition or whether it can be linked to a review or other general issue which is already contained within an OSC work programme. Councillors have an important role in ensuring that matters highlighted at point 7 below are not taken forward.
7. Councillor call for action cannot be used when there is already a statutory right to a review or appeal and for individual complaints or quasi-judicial matters such as planning or licensing or for council tax and non-domestic rates. Nor can it be used for a

matter which is vexatious, discriminatory, or which it would be unreasonable to raise and discuss at an Overview and Scrutiny Committee.

Procedure

1. This procedure should be followed in dealing with Councillor Calls for Action. It applies both to local government matters and, with necessary adjustments, to crime and disorder matters. It is intended to complement, and not detract from, the statutory rights and duties under relevant legislation.
2. A councillor wishing to raise a CCfA should contact the Strategic Director, Corporate Services and Governance, setting out in writing:
 - a brief explanation of the issue that he/she wishes to raise and the effect on the whole or part of their ward and constituent(s) and the reasons for the CCfA;
 - evidence of public support for the CCfA;
 - evidence that the issue has already been raised with relevant officers and portfolio holder(s) and that other means of resolving the issue have been explored but have proved unsuccessful; and
 - the outcomes the councillor expects as a result of bringing the CCfA.
3. The Strategic Director (or an officer acting on his/her behalf) will arrange a meeting with the councillor who raised the CCfA to discuss how it will be handled. The meeting should consider, among other things:
 - the matters set out in paragraph 2 above
 - whether a CCfA is the best means of resolving the issue or whether another route would be more appropriate – (i.e. have all appropriate mechanisms for dealing with the issue been tried and failed);
 - how the subject matter of the CCfA relates to the Council's (and the Gateshead Strategic Partnership's) – priorities and resource framework.
4. If following the meeting the councillor requests that the matter should be referred as a CCfA to the relevant OSC, provided it is not an excluded matter, the Strategic Director will arrange for it to be placed on the agenda for the next scheduled meeting of the OSC concerned, unless the matter is of such urgency that the Chair decides that a special meeting should be held. If a councillor decides not to refer a matter no further action will be taken under CCfA.
5. The Strategic Director will ensure that the councillor who raised the CCfA, and representatives of relevant partner organisations, are invited to attend, and speak at, the meeting of the OSC at which the CCfA is considered. (In the case of crime and disorder matters this will include the responsible authorities of the Crime and Disorder Reduction Partnership).
6. When considering whether to take the matter further the relevant OSC will take account of:
 - anything that the councillor has done in relation to resolving the issue;
 - representations from the councillor as to why the OSC should take the matter up;

- any powers a member may exercise in relation to a matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007;
- whether a relevant service or partner agency has been made fully aware of the issue and given sufficient time to resolve the matter and the responses of the service or partner agency to the councillor;
- whether the OSC considered a similar issue recently and, if so, whether the circumstances or evidence changed;
- whether this is an issue being examined by another form of local Scrutiny (e.g. the Local Involvement Network).

8. The OSC will consider the matter and report its findings to:

- the Cabinet
- relevant partner organisations, (including the themed partnership, the responsible authorities of the Community Safety Board and co-operating persons and bodies, as appropriate); and
- the councillor who raised the CCfA.

Unless it decides not to take any action in relation to the matter, in which case it shall notify only the councillor who raised the CCfA, and the reasons for its decision.

The Cabinet and partner organisations will be asked to respond to the CCfA within one month.

9. Every effort will be made to complete consideration of a CCfA within 2 months, although it is recognised that in some cases more time will be required.

CODE OF CONDUCT FOR EMPLOYEES

1. Introduction

- 1.1 This Code incorporates the provisions of the 1994 "Code of Conduct for Local Government Employees" recommended by the Local Authority Associations and the LGMB. The provisions contained in the Council's previous "Standards of Conduct - Guidance for Employees" have been retained and/or modified in this new Code.
- 1.2 Paragraph 2 of Part 2 of the handbook of national conditions of service for local authority employees states:-

"Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."
- 1.3 This Code is concerned with the standards of conduct expected of employees in relation to areas for which it is not always easy to lay down guidelines covering every eventuality.
- 1.4 Whilst these areas are somewhat different to the usual range of matters which are considered under the Council's Disciplinary Procedure, it should be noted that breaches of this Code and guidelines which may cause an employee's conduct or integrity to be questioned, may result in action being taken against the employee in accordance with the Disciplinary Procedure. This would apply even where the particular incident which led to the questioning of conduct or integrity occurred completely outside of the work environment. In this connection, employees must be aware that conviction for criminal offences committed outside of the work environment, where the nature of the offence is such that the confidence of the Council or the public in the integrity and character of an employee may be affected, may lead to disciplinary action - including dismissal.
- 1.5 The guidance in this Code is intended to assist employees to reach the "right" decision in any particular case. If in doubt employees should always seek the advice of more senior members of management before committing themselves to any particular course of action. Human Resources and Corporate Services and Governance can also be contacted for advice through the appropriate departmental management channels.

2. Standards of service

- 2.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide balanced and appropriate advice to councillors and fellow employees with impartiality. Employees will be expected through the Council's agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager, any impropriety or breach of procedure.

3. **Political neutrality**

- 3.1 Employees serve the Council as a whole. It follows that they must serve all councillors and not just those of the majority group and must ensure that the individual rights of all councillors are respected.
- 3.2 In circumstances where employees are requested to attend political group meetings, the Chief Executive must be informed as soon as such a request is made and consulted on the appropriate approach. In the event of employees attending such meetings, they must not compromise their political neutrality.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in paragraphs 3.1 to 3.3.

4. **Gifts, hospitality, sponsorship and visits**

- 4.1 It would be wrong to produce an atmosphere in which Council employees refused all invitations for social involvement with persons or bodies who may have had or may seek to have in the future, business dealings with the Council. Contacts established on the social plane can be helpful in the Council's interests. At the same time it is very easy for such involvement to be misconstrued as providing an opportunity to bring about undue influence.
- 4.2 The following extract from the Prime Minister's (Wilson) Committee on Local Government Rules of Conduct still provides a useful summary of the general approach which should be followed with regard to gifts and hospitality. Although directed at the time specifically at Councillors it is equally relevant to employees and must be regarded as an integral part of these guidelines.

"Another particular source of conflict between the private and the public interest is the offer of gifts, hospitality or other benefits in kind to councillors in connection with their official duties. A nice exercise of judgement may sometimes be necessary to decide how the public interest, and the Authority's good name, may best be served. A reasonable amount of entertainment is a normal part of the courtesies of public life, and extreme strictness can give unnecessary offence to people and organisations with whom the Authority's relationships should be cordial. But an appearance of improper influence is easily created, and with it encouragement of cynicism about the motives of those who serve in local government."

4.3 **Corruption**

- 4.3.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing

anything or showing favour or disfavour to any person in their official capacity. If an allegation is made, and if, after investigation is found to have substance, it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

4.3.2 If an allegation of the kind set out in 4.3.1 is upheld, this is likely to result in disciplinary action leading to dismissal whether or not a criminal conviction ensues.

4.4 **Gifts**

4.4.1 This paragraph and paragraphs 4.4.2 and 4.4.3 below, are particularly concerned with the subject of gifts from organisations or persons who are providing or who seek to provide work, goods or services to the Council, e.g. developers, building contractors, suppliers of goods or equipment and firms able to provide professional or commercial services to the Council. With the exceptions listed below, the employee should refuse any personal gift offered to him or her, or to a member of his or her family by any person or body who has, or seeks dealings with the Council. The offer should be reported to the Strategic Director concerned and, if the offer is made to a Strategic Director, it should be reported to the Chief Executive.

4.4.2 Exceptions

- (a) A modest gift of a promotional nature given to a wide range of people and not uniquely to the employee. These gifts are usually given at Christmas time and include calendars, diaries, desk sets, flow charts, tape measures, scales and other articles of use in the office or job.
- (b) Gifts of a promotional nature on the conclusion of any courtesy visit to a factory or firm of a sort normally given by that firm.
- (c) A gift where refusal would cause needless offence and where the giver is not currently seeking a decision or business from the Council. Obviously, it is wise to err on the side of caution; an obviously expensive gift should raise a question even if it otherwise falls within one of the above categories. If in doubt the advice of the senior officer should be sought and in all cases where a gift is accepted this should be reported to the Strategic Director.

4.4.3 When a gift has been refused, this should be done with tact. In some cases a gift is simply delivered and there may be a problem over returning it. It is sometimes acceptable to the giver for the gift to be the subject of a raffle and the proceeds placed to a charitable fund, e.g. Mayor's Charity Fund. However, an arrangement of this sort should only be made with a Strategic Director's approval and recorded by letter. In any event all gifts of alcohol should be donated to the Mayor's Charity Fund.

4.4.4 This paragraph and paragraphs 4.4.5 and 4.4.6 below, are specifically concerned with the subject of gifts which may be offered by individuals to those employees who have a caring role or who provide a "direct personal service" role to such individuals, e.g. Residential Care and Domiciliary Care employees. It is not unusual for residents of old people's homes or old people receiving any form of domiciliary

service to wish to express their thanks and gratitude to care employees by offering gifts, money or even by making the employee a beneficiary in their Will.

4.4.5 Obviously this is an area which needs to be handled with great tact and sensitivity by the employee in order (a) to avoid giving needless offence to the individual, and (b) to protect the employee from any suggestion of improper motives or conduct. The general principle must be that gifts or money should be politely and tactfully refused with a proper explanation given as to the reason why. If such refusal does not work and if pressing the issue would, in the opinion of the employee, lead to unnecessary distress, then the gift should be accepted.

4.4.6 On accepting a gift or money, or on being made aware that he or she has been made a beneficiary in an individual's Will, the employee should immediately report the matter to their supervisor or line manager and discuss it. If necessary, advice should be sought from higher management to help to determine whether it is acceptable for the employee to keep the gift or money or what steps need to be taken in the event of them being named in a Will.

4.5 **Hospitality**

4.5.1 Hospitality is sometimes offered to representatives of the Council and is accepted at official, i.e. Council level, because that is reasonable in all the circumstances.

4.5.2 Where hospitality is offered to individual employees to purely social or sporting functions then permission to attend should be sought from the Strategic Director and will only normally be given when the event is seen as part of the life of the community or where it is in the interest of the Council to be represented or where the Council should be represented.

4.5.3 In general terms, it will often be more acceptable for employees to join in hospitality offered to a group, e.g. a company's golf day for customers, than to accept something unique to themselves, e.g. tickets for a theatre. When a particular person or body has a matter currently in issue with the Council, e.g. an arbitration arising from a contract, then, clearly, common sense dictates that offers of hospitality be refused even if in normal times they would be regarded as acceptable.

4.5.4 Special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. It is important to avoid any suggestion of improper influence. When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.

As guidance, the following examples are given:-

4.5.5 Generally Acceptable

(a) A working lunch of a modest standard provided to allow the parties to continue to discuss business but where of necessity working lunches are taken on a fairly frequent basis with the same company, the employee

should reciprocate in kind. The employee must be careful not to claim subsistence unless he or she has actually expended the money claimed on, for example, the purchase of drinks.

- (b) Invitation to a Society or Institute Dinner or function, e.g. private consultant or company inviting members of departments which are directly in contact with them on a day to day basis such as Engineers, Architects, Planners.
- (c) Invitation to play golf in company's annual guest fixture.
- (d) Invitation to take part in company jubilee or other anniversary celebration.

4.5.6 Generally Unacceptable

- (a) Holiday abroad or weekend in any holiday centre.
- (b) Offers of hotel accommodation.
- (c) Use of company flat or hotel suite.
- (d) Tickets for theatres, shows, concerts, sporting events or other similar types of activities other than in the circumstances set out in 4.5.1 and 4.5.2 and where appropriate permission has been obtained.

4.6 Registering Gifts and Hospitality

- 4.6.1 For the protection of employees and the Council, all offers of significant gifts and hospitality, whether accepted or refused, should be entered in the Services' Register or the Strategic Directors' Register as appropriate.
- 4.6.2 The Register will hold details of the name and job title of the employee concerned, the details of the offer (nature, event, description, value, date), who the offer was made by and who the decision was approved by (if anyone other than the employee concerned).

4.7 Sponsorship

- 4.7.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Sponsors or potential sponsors should be politely informed that such activities are being promoted by the Council and not individual officers.
- 4.7.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other

means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

4.8 **Visits to Inspect Equipment, Supplies, etc.**

Where employees are required to make visits to outside organisations to inspect equipment, supplies or other goods with a view to purchase on behalf of the Council, employees generally should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

5. **Conflicts of interest**

5.1 Other ("Outside") Employment

- 5.1.1 Employees' off-duty hours are their personal concern but they should not subordinate their duty to their private interests or put themselves in a position where their duty and their private interests conflict. The Council will not automatically preclude officers from undertaking additional employment but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.
- 5.1.2 Whilst it is not possible to draw up an exhaustive list of those areas of outside employment which are the subject of this section, the following are examples of broad headings which should cover the more usual areas:
- (a) Paid or unpaid employment for an individual or organisation for work which is in any way connected with the scope of the employee's official employment with the Council.
 - (b) Paid or unpaid employment for an individual or organisation for work which is connected with the employee's profession, this includes board membership, chairing and other arrangements with professional institutes etc.
 - (c) Any other paid or unpaid outside employment which may have the effect of interfering with the efficient discharging of the duties and responsibilities of the employee's primary paid employment with the Council.
- 5.1.3 In the light of 5.1.1 and 5.1.2 above, the following specific guidance is given:-
- (a) Employees at all levels are required to avoid positions of conflict by undertaking outside work. It is considered that a conflict arises when an employee is to be paid by a member of the public or any outside organisation or body for work which is in any way connected with the scope of his or her official duties. Such work should not be accepted. This does not, however, preclude employees from writing articles or giving talks and lectures on subjects connected with their work. See Paragraph 5.1.4 below.
 - (b) Employees above spinal column point 28 shall devote their whole-time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without the express consent of

the Council. Those graded above spinal column point 28, therefore, need specific permission from the Council to undertake outside work even if in their view the work could not possibly conflict with their duty as an employee of the Council through approval of the Strategic Director, Corporate Services and Governance.

- (c) Those graded spinal column point 28 or below who wish to undertake outside employment which might in any way conflict with the scope of their official duties must obtain the written approval of their Strategic Director, prior to undertaking such employment.

5.1.4 With regard to fees paid to employees in respect of lectures, talks, written articles, election duties, etc., the following conditions will apply.

- (a) Employees are permitted to retain all fees and allowances received for acting in any capacity in connection with the conduct of elections undertaken with the prior approval of the Strategic Director or the Chief Executive in respect of Chief Officers.
- (b) Where employees wish or are asked, to undertake lectures, talks or duties as an examiner or invigilator during working hours they must, of course, seek the prior approval of their Strategic Director or the Chief Executive in respect of Chief Officers. Employees will be permitted to retain all fees and allowances in respect of such outside duties.
- (c) Where employees wish or are asked, to undertake such duties as in (b) above, outside working hours they are strongly advised to notify their Strategic Director in advance or the Chief Executive in respect of Chief Officers. Employees will be permitted to retain all fees and allowances in respect of such outside duties. This paragraph also applies to employees who receive a fee for a written article.
- (d) Where employees are asked or wish to become members of a board, adopt a role with a professional institution or other organisation then they must seek prior approval of their Strategic Director or the Chief Executive in respect of Chief Officers. When considering such applications the approving officer will take into account the following factors.

The organisation concerned, prestige for the Council, sharing the knowledge with colleagues, total time from work, ability to learn from experience, development of contacts that are good for the Council, potential opportunities for funding.

- (e) in respect of (b), (c) and (d) above, attention is drawn to Part 6 – Use of Confidential Information – and the advice contained therein about public disclosure of information. In particular, employees should, where appropriate, emphasise that the views being expressed are their own personal views and not necessarily those of the Council.

5.2. Personal Interests

- 5.2.1 Employees must declare in writing to their Strategic Director or the Chief Executive in respect of chief officers any non-financial interest which could bring about conflict with the Council's interest.
- 5.2.2 Employees should declare in writing to their Strategic Director membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about Rules or membership or conduct. In the case of Strategic Directors and Deputy Directors such declaration should be made to the Chief Executive. In the event of a Strategic Director being a member of the same organisation as any employee, the Strategic Director should inform the Chief Executive of the employee's membership of that organisation.
- 5.2.3 Employees must declare in writing to their Strategic Director or the Chief Executive in respect of Chief Officers any financial interests which could conflict with the Council's interests. Section 117 of the Local Government Act 1972 requires employees to make a formal declaration about contracts with the Council in which they have a pecuniary interest. It is a criminal offence to fail to comply with this provision.
- 5.2.4 Employees in certain services can occasionally be placed in a position where, within the normal scope of their duties, they may be faced with the problem of making official, professional decisions about matters in which they have a personal involvement. Examples of such employees and services are Building Control and Development Management staff in Economy, Innovation and Growth; Lettings and Area Housing staff in Housing, Environment and Healthy Communities; Domiciliary Care staff in Children, Adults and Families. The following general guidelines are issued for the assistance of employees to avoid possible conflicts of interest.
- 5.2.5 Employees should not involve themselves or assist in the preparation and/or submission of applications to the Council for planning permission, improvement grants, entry to Council house waiting lists, building regulations approval, etc., except for those applications relating to their own property or themselves or those of their immediate family. This does not, of course, mean that employees should not assist members of the public with applications or discuss applications informally with them, in the normal course of their duties.
- 5.2.6 Employees preparing or submitting an application in accordance with 5.2.5 above, or having a direct, personal (not necessarily pecuniary) interest in an application by virtue of that application being submitted by or on behalf of a relative or close friend, should inform their Strategic Director or the Chief Executive in respect of Chief Officers in writing of that interest. In such cases the employee shall not take any part in the processing or determination of the application.
- 5.2.7 The decision whether or not to declare an interest must, of course, be left to the discretion and good sense of the individual employee. However, a good general guide will be for employees to ask themselves whether their judgement in regard to an application may, or might be said to, be impaired in any way by their relationship

to, or friendship with, the applicant or that their employment in the service might be said to influence the determination of the application.

- 5.2.8 Employees should be aware that, legally, the ownership of intellectual property or copyright created during their employment is vested in the Council unless the Council agrees to the contrary. Employees must therefore not do anything which conflicts with the Council's rights in this regard.

5.3 Relationships

- 5.3.1 Councillors - Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

- 5.3.2 The local community and service users - Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the Council's policies.

- 5.3.3 Contractors - All relationships of a business or private nature with external contractors or potential contractors should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to anyone in the tendering process. No parts of the local community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors should refer that relationship to the appropriate manager.

6. Use of confidential information

- 6.1 Employees shall not communicate to the public proceedings of any committee meeting, etc., nor the contents of any document relating to the Council unless required by law or expressly authorised to do so.

- 6.2 The following extract from the Prime Minister's (Wilson) Committee on the problems associated with handling confidential information is still valid and must be regarded as an integral part of these guidelines:-

"A conflict of interest can also arise over the use of information which members and employees of local authorities necessarily receive, by virtue of their duties, before it is made public. Such information may be of a kind which the member or employee could use to his own profit. This can arise anywhere in the wide range of functions

performed by local authorities, but the risks are especially great in land use planning and in the award of contracts. The basic safeguards against such misuse of information are the general ones mentioned earlier; the honesty of the individual and maximum openness.

For the latter, the Authority must ensure that information in its possession becomes public knowledge at the earliest possible stage, so as to reduce to the minimum the time during which particular information can confer any advantage upon its possessor."

- 6.3 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor or another employee which is personal to that individual and does not belong to the Council, should not be divulged by the employee without the prior approval of that individual, except where such disclosure is required or sanctioned by the law.
- 6.4 Nothing is more damaging to the relationship between employees and members of the Council and between the Council and the public than ill considered gossip outside the office about the Council's business.
- 6.5 Some services deal extensively in matters of a confidential and personal kind and here employees need to be particularly circumspect in what is said outside the service about matters which are going on inside it.
- 6.6 In all services, however, the following guidelines should be adhered to:-
 - (a) Official documents - letters, memoranda, committee reports, agendas and minutes, files, plans, etc., should not be taken out of the office except in connection with official Council business or where the employee wishes to do some work away from the office.
 - (b) Paragraph 6.1 above makes clear the Rules governing communication of Council information to the public. The "public" must also be taken to read the "media" and, in the employee's own interest he/she should not talk to the press, television or radio or provide any written information or documents to them without the express consent of his/her Strategic Director. It may be advisable for a Strategic Director to determine that either him/herself or a specific nominated person or persons in his/her service are the only people authorised to communicate with the media.
 - (c) Employees should not communicate confidential information or the contents of any documents such as those mentioned in 6.6(a) above, to other employees of the Council and any other persons who do not have a legitimate work involvement with the subject to which the information or document relates.

6.7 Employees should be made aware of the implications of the Data Protection Act 2018 and the General Data Protection Regulations and the restrictions these place on the use of personal data.

6.8 **The Tendering Process**

6.8.1 Employees involved in the tendering process and dealing with contractors should be clear on the Council's policies and procedures for tendering including the respective roles of client and contractor. Employees who have both a client and contractor responsibility must be aware of the need for accountability.

6.8.2 Employees must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

6.8.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation. The absolute need for confidentiality in handling such information, both within and without the Council, cannot be stressed too highly and employees who breach this confidentiality will be subject to disciplinary procedures.

6.8.4 Employees contemplating a management buyout should immediately inform their Strategic Director or the Chief Executive. They should take no further part in any tender process for any work for which the proposed management buyout might be a competitor.

6.8.5 Employees should ensure that no special favour is shown to anyone in awarding contracts.

7. **Use of financial resources**

Employees must ensure that they use public funds entrusted to them in a responsible manner.

PROTOCOL – THE ROLE OF THE MONITORING OFFICER

1. Introduction

- 1.1 This protocol sets out the functions of the Monitoring Officer and the steps that will be taken in Gateshead Council to ensure that those functions are discharged properly.

2. Functions of Monitoring Officer

- 2.1 The role of the Monitoring Officer is essentially a positive one: to work with members and officers to secure high standards of probity and fairness in decision-making, and thus build public trust and confidence in the Council. One key objective for the Monitoring Officer will be to ensure, as far as possible, that the Council's affairs are conducted in such a way that the need to issue a statutory report does not arise.
- 2.2 Some of the Monitoring Officer's functions are prescribed by law. These include the statutory duty to prepare a report on actual or potential contraventions of the law (section 5, Local Government and Housing Act 1989); and duties in connection with the ethical framework laid out in Part III of the Local Government Act 2000, such as the duty to maintain the members' register of interests. Other, no less important, functions are set out in the Council's constitution.
- 2.3 The functions of the Monitoring Officer can be seen as falling into two broad areas as set out below (note that this is not an exhaustive list).

Promoting high standards of conduct throughout the Authority

This is achieved through:

- Supporting the Audit and Standards Committee
- Providing advice to councillors and employees on issues of probity in general
- Advising councillors on the Code of Conduct, declarations of interest and related matters
- Organising and providing training on the Code of Conduct, declarations of interest and related matters
- Organising and providing training on the Code of Conduct, including induction training for new councillors and refresher training for existing councillors
- Maintaining the councillors' Register of Interests
- Receiving and acting on allegations that the Code of Conduct has been breached

Ensuring the Lawfulness, Fairness and Openness of Decision-making

This is achieved through

- the statutory duty to report to the full Council or to the Cabinet in relation to an executive function if he/she considers that any proposal, decision or

omission has given rise, or would give rise, to unlawfulness or maladministration

- providing advice on the scope of powers and authority to take decisions
- maintaining and reviewing the constitution (jointly with the Chief Executive)
- interpreting the constitution
- being the proper officer for access to information
- determining whether executive decisions are within the budget and policy framework

2.4 To assist the Monitoring Officer in performing these functions, the Constitution (Article 13.04) provides that he/she

- may put any item on the agenda of the Council, the Cabinet or any other council body if it appears to him/her to be necessary to do so
- will be given the opportunity to comment on every report submitted to a decision-making body
- may advise the Chief Executive to exercise his power to call a meeting of the Council, the Cabinet or any other council body if it appears to be necessary to do so.

3. Support for the Monitoring Officer

3.1 To carry out his/her role effectively, the Monitoring Officer will need the support of employees across the Council and is entitled to rely on their support. In particular

- Any employee who believes that the Council may have acted or be about to act unlawfully is under a duty to inform the Monitoring Officer of his/her concerns;
- All employees are expected to co-operate with any request for information made by the Monitoring Officer or a person acting on his/her behalf, in the exercise of his/her duties;
- Employees who are asked to comment on reports to meetings of Council bodies should raise any concerns about legality or propriety initially with the author of the report and then with the Strategic Director concerned. If it proves impossible to resolve the concern in this way, the matter should be raised with the Monitoring Officer, through the employee's Service Director if necessary.
- Where employees give advice to members on issues relating to the Code of Conduct for members or to standards of conduct generally, then unless the matter is entirely routine and non-contentious they should inform the Monitoring Officer, through their Service Director if necessary.
- The Council's whistle blowing procedure provides that line managers should normally be the first point of contact for employees wishing to raise concerns about wrong or unacceptable practice. Where a manager investigating an allegation under the whistle blowing procedures forms the view that illegality or impropriety has occurred, he/she should bring it to the Monitoring Officer's attention.

3.2 The Monitoring Officer will from time to time nominate a deputy monitoring officer who will act on the Monitoring Officer's behalf in his/her absence. Service Directors and

other senior staff in Corporate Services and Governance will provide ongoing support to the Monitoring Officer and deputy.

- 3.3 The Monitoring Officer may appoint a member of staff to undertake a specific task in his/her name, and will do so where it appears that the Monitoring Officer's personal involvement could give rise to conflict of interest.

4. Liaison with Outside Bodies

District Audit

- 4.1 The Council's External Auditor, has prepared (and will keep under review) a protocol regarding the legality of transactions that might have significant financial consequences. Under this protocol, the Strategic Director, Corporate Services and Governance has agreed to act as the liaison/contact point for legality issues. This will involve informing the External Auditor of current legal issues and any new, or novel, proposed scheme or arrangement with a financial consequence, which has potential legal implications. The External Auditor will maintain a regular dialogue with the Strategic Director on legal issues through quarterly meetings.

Standards

- 4.2 The Monitoring Officer is the point of contact for allegations that a member has failed to comply with the Council's Code of Conduct.
- 4.3 The Monitoring Officer will give advice to members who have concerns that a breach of the Code of Conduct may have occurred. The Monitoring Officer may however delegate this task, in any particular case, to the Deputy Monitoring Officer or another senior member of staff in Corporate Services and Governance.

Local Government Ombudsman

- 4.4 The Service Director, Legal and Democratic Services will inform the Monitoring Officer where it appears appropriate, of complaints which are being reviewed under the Council's corporate complaints procedure or are being dealt with by the Local Government Ombudsman. In particular, they will inform the Monitoring Officer of all issues
- where the Ombudsman has made a finding of maladministration (or appears likely to do so)
 - where the Ombudsman suggests a local settlement
 - where there appears to have been a significant failing on the Council's part even if this does not amount to maladministration in the strict sense.

Housing Ombudsman

- 4.5 The Service Director, Strategic Housing & Residential Growth will inform the Monitoring Officer where it appears appropriate, of complaints which are being reviewed under the Council's corporate complaints procedure or are being dealt with

by the Housing Ombudsman. The Monitoring Officer will also be informed of issues relating to:

- where the Housing Ombudsman has made a finding of maladministration (or appears likely to do so)
- where the Housing Ombudsman suggests a local settlement
- where there appears to have been a significant failing on the Council's part even if this does not amount to maladministration in the strict sense.

PROTOCOL – THE ROLE OF THE DIRECTOR OF PUBLIC HEALTH

1. Introduction

- 1.1 This protocol sets out the functions of the Director of Public Health and the steps that will be taken in Gateshead Council to ensure that those functions are discharged appropriately.

2. Role and Functions of the Director of Public Health

2.1 The role of the Director of Public Health (“the Director”) is a critical local leadership role in respect of public health and wellbeing across the Borough of Gateshead. The Director is jointly appointed by the Council and the Secretary of State acting by Public Health England. (Public Health England will also continue to monitor the professional and technical competence of the Director throughout their term of office.) The Director is the Council’s principal adviser on all health matters, providing advice to elected members, officers, Clinical Commissioning Groups, the NHS and the public.

2.2 Many of the Director of Public Health’s functions are prescribed by law and match exactly the corporate public health duties of the Council. The Director is directly accountable to the Council’s Chief Executive for the delivery of the public health functions of the Council. The core functions are:

- To be responsible for all of the Council’s duties to take steps to improve public health;
- To be responsible for any of the Secretary of State’s public health protection or health improvement functions that he/she delegates to local authorities either by arrangement or under regulations; this includes the following mandated services:
 - o Weighing and measuring of children;
 - o NHS Health check offer and assessments;
 - o Sexual health;
 - o Water Fluoridation programmes (where applicable);
 - o Public Health Advice to the Clinical Commissioning Group for the area; and
 - o Protecting the health of the local population.
- To be responsible for the 0 to 5 Healthy Child Programme, including the following mandated elements of the universal service:
 - o Antenatal health promoting visits;
 - o New baby review;
 - o 6-8 week assessment;
 - o 1 year assessment; and
 - o 2-2½ year review.
- To be responsible for exercising the Council’s functions in planning for, and

responding to, emergencies that present a risk to public health;

- To be responsible for the Council's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders; and
- To be responsible for any other such functions as the Secretary of State specifies in Regulations.

In addition to the above core functions, the Director of Public Health is given specific responsibility for:

- The Council's public health response as a responsible authority under the Licensing Act 2003, such as making representations about a licensing application;
- Providing Healthy Start Vitamins where the Council provides or commissions a maternity or child health clinic; and
- The duty to write the annual report on the health of the local population which is then required to be published by the Council (Section 73B(5) & (6) of the National Health Services 2006 Act, inserted by section 31 of the Health and Social Care 2012).

Additional, no less important, functions are set out in the Council's Constitution.

- 2.3 In addition to the above, the functions of the Director of Public Health can be seen as falling into two broad areas as set out below (note that this is not an exhaustive list).

Prevention of ill health, Health Improvement and reducing health inequalities

This is achieved through:

- Ensuring the mechanisms are in place to lead the Council and its partners in the transformational change necessary to realise the aspirations of Vision 2030:
- Advising on and co-ordinating the preparation of the Joint Strategic Needs Assessment (including the input of the statutory directors of children's services and adult social services) and ensuring that it reflects the needs of the whole population;
- Coordinating the implementation of a Health and Wellbeing Strategy;
- Being an active and influential member of the Health and Wellbeing Board;

- Ensuring that, where possible, all of the Council's decisions and commissioning strategies promote public health;
- The appropriate investment of the Public Health Budget and the commissioning of appropriate, effective and value for money public health services that will improve the health of Gateshead's population; and
- Effective specialist public health advice to all commissioners, officers and members.

Health Protection

This is achieved through:

- Creating the right environment to actively encourage and ensure the improved well-being of Gateshead's residents;
- The scrutinising and performance management of local health protection plans and arrangements with local partners;
- Escalating concerns to and working with the Local Health Resilience Partnership for Northumberland and Tyne and Wear;
- Providing leadership, expertise and advice to senior officers and elected members on a range of issues including outbreaks of disease and emergency preparedness;
- Receiving information on all health protection incidents and taking appropriate action with Public Health England and the NHS;
- Ensuring oversight of the NHS screening programmes, (both cancer and non-cancer, ante-natal and children's screening programmes), ensuring the health of the population is adequately protected and raising issues and concerns appropriately;
- Ensuring oversight of the NHS immunisation programmes and any other programmes that the Secretary of State instructs, including catch-up programmes, raising issues and concerns appropriately; and
- Being a member of appropriate committees and forums established locally that have regard to protecting the health of the population.

3. Promoting public health across the Council and support to the Director of Public Health

3.1 In order to discharge his/her responsibility to the Council and deliver real improvements to local public health, the Director must have an overview of the Council's activity and the necessary degree of influence over it.

This is achieved through:

- Being a standing member of the Health and Wellbeing Board and Community Safety Board;
- Inclusion in the Council's Corporate Management Team for consideration of all public health issues (including regular attendance on a monthly basis), and in the Care, Wellbeing and Learning Management Team generally, and at other service groups' management teams where appropriate;
- Having full access to papers considered by the Council's corporate management team (via the CBS Management Team's access systems), IT-based information systems, and other information needed to inform and support the delivery of all his/her functions;
- Having day to day control of, and accountability for, the Council's ring-fenced Public Health budget (such accountability being directly to the Council's Chief Executive) as determined by the Council each budget year;
- Being consulted by, and consulting with, the Council's statutory Directors of Children's Services and Adult Social Services, and all other chief officers, on all public health matters falling within their areas of responsibility;
- Having access to a team of support staff who can offer commissioning support and public health advice or expertise in support of the Director of Public Health's role;
- Direct access to and support from the Chief Executive (in addition to other senior officers and the support services within their control: e.g. financial, legal, HR, procurement and communications support);
- Having the ability to comment upon all relevant reports and strategies of the Council to ensure that public health is being promoted and to identify the implications of any recommendations made, as appropriate;
- Engaging in consultation with the Strategic Director, Corporate Services and Governance and Strategic Director, Resources and Digital, in accordance with Rule 14.04 (e) of the Constitution (Officers' Role in Support of Decision Making) in respect of any reports to be presented to any decision making body by the Director;
- Direct access to elected members through attendance at Health and Wellbeing portfolio meetings and at Care, Health and Wellbeing Overview and Scrutiny Committee;
- Commitment, co-operation and assistance from all elected members and officers to ensure there is a 'whole system approach' to public health across the Council; and
- Ensuring public health is championed across all areas of the Council's business.

PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

1. Introduction: The Underlying Principles

- 1.1 The purpose of this protocol is to guide councillors and officers of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, the protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 The protocol is to a large extent no more than a written statement of current practice and convention. However, the introduction of a new constitution in turn creates a range of new situations, and new relationships, where both members and officers may feel some uncertainty as to correct procedure. The protocol aims to promote greater clarity and certainty. Where appropriate, it is cross-referenced to the relevant articles and Rules of the constitution.
- 1.4 The protocol also seeks to reflect and complement the principles underlying the respective codes of conduct which apply to members and officers and also form part of this constitution. The purpose of the codes and this protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.5 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 disclose confidential information
 - not to misuse the Council's resources

Following the principles in this protocol will help members to observe the requirements of the Code of Conduct.

2. Roles of Councillors and Officers

- 2.1 The former National Code of Local Government Conduct contained the following advice:

“Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities 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 Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and Sub-Committees.”

- 2.2 This advice now needs to be supplemented with references to the Council's Cabinet and Overview and Scrutiny Committees. However, it remains valid in clearly pointing out both the distinctiveness of members and officers, and their mutual dependence.
- 2.3 The Council's vision is that of 'One Community, One Council – Working Together'. For this vision to be realised, members and officers must work together in a harmonious relationship based on mutual respect, courtesy, trust and understanding of each other's roles. This should prevail in all meetings and contacts whether formal or informal.
- 2.4 This kind of relationship also plays a very important part in determining how the Council is seen by the public. It is essential that members and officers remember their obligations to sustain and enhance the Council's reputation. They should do everything possible to avoid criticism of other members, or other officers, in public places.
- 2.5 Much of this protocol deals with specific situations such as the relationships between the Mayor or the Leader and officers, or councillors' access to information. However, the following general principles should always be borne in mind.
- Neither councillors nor officers should seek to take unfair advantage of their position in their dealings with each other. Councillors should be aware that officers, especially junior officers, may sometimes be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.
 - A councillor should not apply pressure on an officer either to do anything that he or she is not empowered to do, or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
 - Similarly, an officer must not seek to use influence on an individual councillor to make a decision in his or her personal favour, nor raise personal matters to do with their job, nor make claims or allegations about other employees. The Council's human resources framework includes formal procedures for consultation, grievances, whistle blowing and so on. Officers who wish to pursue issues of this nature must do so through the appropriate procedure.
 - Close personal familiarity between individual councillors and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details. Such familiarity could also cause embarrassment to other councillors and/or other officers and even give rise to suspicions of favouritism. It should therefore be avoided.

- Councillors and officers who are related should be careful of any conflict of interest that may arise, or the potential for confidential information to be passed between them, and ensure that such situations are avoided.

Decision-Making by Managers

- 2.6 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 (the Chief Executive will publish a list of these delegations from time to time). Managers must consider carefully any comments made to them by the member(s) concerned, but must bear in mind that it is the manager, not the member, 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 does not agree, or which he/she considers to be wrong or inequitable.
- 2.7 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 member body for a decision. Indeed, managers should do this if they feel that the issue is a particularly difficult one or perhaps raises some new point of principle which was not contemplated when the delegation was first agreed.

3. The Council as Employer

- 3.1 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.
- 3.2 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.
- 3.3 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:
- certain senior appointments (through the Special Appointments Committee and/or the full Council)
 - settling terms and conditions and the human resources framework (through the full Council)
 - determining appeals from employees of the Council in relation to conditions of service, discipline and so on (through the Personnel Appeals Committee)

- 3.4 It is essential to the proper running of the Council that members and officers do not step outside this framework. As mentioned in paragraph 2.5, 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.
- 3.5 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.
- 3.6 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, that is where they are present because of their position as councillors (and therefore as representatives of the employer), with employees in these situations.
- 3.7 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.

4. Councillors' Access to Information and Advice

Documents

- 4.1 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, regulatory committees and the Audit and Standards Committee. However, this does not apply to certain items which 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. 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.
- 4.2 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.
- 4.3 It is for the councillor concerned to demonstrate that he/she has a 'need to know'. Mere curiosity is not enough.

- 4.4 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.
- 4.5 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.
- 4.6 The Code of Conduct provides that a councillor must not disclose information given to him in confidence by anyone without the consent of a person authorised to give it, or unless he 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.

Advice

- 4.7 Councillors may ask appropriate officers (normally at Service Director level or above) for advice on
- 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
 - matters with which they have to deal as ward councillors.

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 on the principles set out in paragraph 4.1-4.6 above.

- 4.8 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.
- 4.9 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 in the first instance.

5. The Mayor and Officers

- 5.1 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 which contributes greatly to the Council's goal of social inclusion.
- 5.2 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.

5.3 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.

6. The Leader and Cabinet and Officers

6.1 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 on which they lead change, publicly present issues and represent the Council and lead consultation exercises.

6.2 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 managers' ability to deal impartially with other members or with other elements of the authority's structure such as Overview and Scrutiny committees.

6.3 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.

6.4 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.

6.5 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. 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.

7 Chairs and Members of Overview and Scrutiny and Officers

7.1 Following the advice of the Secretary of State, the Council has not formally separated officer support between the Cabinet and the Overview and Scrutiny function. Indeed, the Scrutiny function in Gateshead is 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.

- 7.2 As part of the Overview and Scrutiny Rules which appear elsewhere in this constitution, the Council has adopted a number of conventions including:
- 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;
 - 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;
 - the Chief Executive is entitled to make representations if he/she feels that an inappropriate officer has been asked to attend;
 - an officer may undertake to give a written answer, or ask for time to seek further information, if he/she feels it is appropriate.
- 7.3 When attending Overview and Scrutiny Committees, officers should confine their 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.
- 7.4 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.
- 7.5 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.

8 Chairs and Members of Other Committees and Officers

- 8.1 The Council has a range of committees which deal with 'non-executive' matters. The main ones are:
- the Planning and Development Committee
 - the Licensing and Regulatory Committees
 - the Rights of Way Committee
 - the Appeals Committee
 - the Personnel Appeals Committee
 - the Audit and Standards Committee
 - the Accounts Committee
- 8.2 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 5 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.

8.3 To summarise, the main principles are

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

9 **Officers and Political Groups**

9.1 Officers are politically neutral and must be seen to be so. They serve the whole Council and not a political group.

9.2 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.

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

10 **Councillors in their Ward Role and Officers**

10.1 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.

10.2 Officers should respond positively to requests for councillors, in their ward role, for advice (see paragraph 4.7) or for assistance in dealing with a ward matter.

10.3 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. However, if it is clear that the application of a Council policy would cause unreasonable hardship, or would have some consequence which 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.

10.4 Protocols have been drawn up to cover a number of specific situations relating to members in their ward role. These are

- consultation of ward members (annex 3B)
- public meetings (annex 3C)
- candidates at local elections (annex 3D)
- parliamentary candidates (annex 3E)

11 Other Individuals who are Members of Council Bodies

11.1 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.

11.2 This participation can take many forms. At the most formal level, church and parent governor representatives must be appointed by law to the education and 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.

11.3 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.

11.4 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.

11.5 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.

12 Press Releases

12.1 Official press releases on behalf of the Council will be prepared and circulated by the Council's Communications service.

- 12.2 It is councillors 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.
- 12.3 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.
- 12.4 There is of course nothing to prevent any councillors from communicating with the media, 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.
- 12.5 In making public statements, 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.

13 Correspondence

- 13.1 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).
- 13.2 This does not, of course, prevent a member 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 member such as a letter of complaint. In these situations members 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.
- 13.3 Letters which create obligations or give instructions on behalf of the Council should never be sent out over the name of a member.

14 Use of the Council's Resources

- 14.1 The White Paper "Modern Local Government – In Touch with the People" (July 1998) states:

"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".

- 14.2 The Council endorses these principles and accordingly seeks to provide members with a range of support services, including
- stationery, typing and photocopying
 - the use of certain employees, such as the Members' Secretary and support staff in the Cabinet Office
 - an increasingly wide range of IT services, including some services which can be used by councillors in their own homes.
- 14.3 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 misused for work which lies entirely outside the councillor's role as a member of the Council; for example, for political party publicity or the organisation of political party meetings, or for wholly private purposes.
- 14.4 In using the Council's IT resources councillors must comply with the Councillors' IT Security Policy. Failure to comply could have serious consequences for the Council, for example in exposing it to legal liability.
- 14.5 Councillors should take care not to put members of staff – particularly those who provide support to them – under pressure to carry out tasks which they are not authorised to do.
- 14.6 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 requirements.

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

Introduction

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.

Political Group Meetings

2. This part of the protocol refers to meetings of any of the political groups represented on the Council.
3. 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. No officer can be compelled to attend a meeting of a political group.
4. 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.
5. 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:
 - 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
 - an officer who attends a political group meeting must be accompanied by another officer.
6. At the meeting, officers should confine themselves to questions of fact and explanation relating to policies and recommendations.
7. 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:
 - the Chief Executive
 - the monitoring officer and/or the section 151 officer in relation to matters of which they need to be aware in order to carry out their statutory roles.

8. In this, as in other situations, councillors and officers will treat each other with courtesy and respect.

Other Political Meetings

9. Requests are also sometimes received for officers to attend other meetings of a political nature, for example a branch meeting of a political party.
10. 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.
11. Where it is agreed to accept a request, the meeting must always be attended by two officers.
12. When attending political meetings:
 - Officers should confine themselves to questions of fact and explanation relating to policies and recommendations (paragraph 6 applies).
 - Officers should maintain confidentiality, but may brief more senior officers on matters which they need to know (paragraph 7 applies).

Ward Surgeries

13. Officers will not 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 – Consultation of Ward Councillors

1. It is expected that officers will normally consult ward councillors on matters affecting their wards which require to go to a committee or similar body for a decision or on which they are intending to take a decision under delegated powers.
2. Before consulting ward councillors, the officer should discuss the matter with the appropriate portfolio holder and explain the issues to him/her, making it clear that ward councillors will be consulted.
3. The purpose of consulting ward members 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;
 - to obtain information and advice from ward councillors on the matter;
 - to ensure that their views are recorded and taken into account in the decision-making process.
4. The officer responsible for the consultation should establish personal contact with the ward councillors, either by telephone or by arranging a meeting (with the Cabinet member also being present if they wish). The officer should make a written record of the consultation.
5. All comments from ward councillors must be taken very seriously while recognising that ward councillors do not have a veto over decisions. In particular, the “ward implications” section of the ensuing report should state which councillors have been consulted and what views they expressed, based on the written record referred to above.
6. This protocol does not apply to planning applications or public entertainment licence applications where the existing arrangements for notifying ward members and reporting their views will continue. It will also not normally apply to issues such as the receipt of tenders which come at the end of a process where the initial stage (such as approval of scheme) has been the subject of consultation, unless new issues have emerged during the process.
7. Service Directors are responsible to their Strategic Director for ensuring that the requirements of this protocol are met in relation to functions for which they are responsible. 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 this responsibility.

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:

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

Subject to the request being made by a Councillor and the above conditions having been met, the appropriate officer would 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.

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

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 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 which 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, Legal and Democratic Services 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.

STATEMENT ON THE ROLE OF THE WARD COUNCILLOR AS COMMUNITY CHAMPION

1. As a general principle, our neighbourhood management arrangements will recognise the position of the ward or “front-line” councillor as the legitimate, democratically elected representative of the people and communities within his/her ward.
2. Ward councillors should be champions for the whole of their community. They should know and be known by all the key local public services, community organisations and institutions. They should bring local people and organisations together to solve problems for their community.
3. In carrying out their role as community champion, ward councillors will also need to bear in mind that they are part of the Council and are elected to serve the whole community. They should not champion their locality to the extent that they disregard their corporate responsibility as a member of the Council, and they must always observe the Council’s Code of Conduct and protocols.
4. Specifically, the ward councillor will have the following roles:
 - Being a lead advocate for local communities, articulating their views and representing those views to Cabinet and management and seeking to influence policy and decision-making. This should include hard to reach groups, whom they will need to proactively help to articulate their own views.
 - Taking a lead in identifying service needs specific to neighbourhoods in their ward and in exploring with relevant Cabinet members and management how those needs can be met.
 - Monitoring service delivery in their ward and raising issues about performance with Cabinet members, officers and Overview and Scrutiny Committees as appropriate.
 - Taking the lead in working with local people and organisations to develop community partnerships and similar organisations, and where practicable having a personal involvement in such organisations.
 - Carrying out case work on behalf of local people through ward surgeries and other means and resolving their problems through their contacts with the Council and other public bodies. They will remain the first point of contact for local people who have issues about the services that are provided to them or the way their neighbourhood is run. They should not however be the point of contact for people wishing to raise normal operational issues such as repair requests; this is a role for officers through the established management arrangements.
 - Being the focal point for the “Community Call for Action” under the Police and Justice Act and Local Government and Public Involvement in Health Bill, raising

local concerns with Cabinet members, with other service providers or with the appropriate Overview and Scrutiny committee.

5. There are other important channels of communication with ward members such as ward meetings. In addition the Protocol for Communicating and Consulting with Councillors sets out clear and consistent standards which officers across the Council are expected to follow in consulting ward councillors and responding to their enquiries.
6. Ward councillors will of course have a variety of other roles as members of the council; these include being a member of the Cabinet, a chair/member of an Overview and Scrutiny committee, a chair/member of a decision-making body or a Council representative on an outside body. Some of these roles may on occasion conflict with the ward member role – for example a member cannot both lead a local campaign against a telephone mast and sit on the committee that determines the planning application for the mast. The Council already has protocols which guide members on how to deal with these situations; however, a review will be undertaken to see if any further guidance is required. In addition, the Local Government White Paper has given a commitment that the code of conduct will be amended to allow councillors to speak out on local planning and licensing issues, and Members will be given advice on this.

PART 6

COUNCILLORS' ALLOWANCES SCHEME

The following scheme of allowances is in force from 1 April 2020

	£ per annum
Basic Allowance	11,279
<u>Special Responsibility Allowance</u>	
Leader	33,846
Deputy Leader	22,560
Cabinet Members	16,924
Chairs – Overview and Scrutiny Committees	16,924
Chair – Audit and Standards Committee	14,099
Chair – Health and Wellbeing Board	14,099
Chair – Planning and Development Committee	14,099
Chair – Regulatory and Licensing Committee	14,099
Chair – Appeals Committee	14,099
Vice-Chairs – Overview and Scrutiny Committees	7,053
Vice-Chair – Audit and Standards Committee	7,053
Vice-Chair – Health and Wellbeing Board	7,053
Vice-Chair – Planning and Development Committee	7,053
Vice-Chair – Regulatory and Licensing Committee	7,053
Vice-Chair – Appeals Committee	7,053
Leader of the Main Opposition Group	16,924
Deputy Leader of the Main Opposition Group	6,969
Co-opted Members of Council Committees	747

Childcare and Dependant Carers' Allowance

An allowance not exceeding £15.32 per hour for qualified carers and £9.96 per hour for non-registered persons is payable in respect of members' expenses in arranging for the care of their children or dependants, when the member is attending a meeting or undertaking a duly specified in the Local Authorities (Members' Allowances) (England) Regulations 2001.

Claims for the higher amount need to be supported by an invoice from an agency or registered carer. Claims cannot be made where care is provided by an immediate family member (i.e. parents, children or siblings), unless the individual is a registered carer, who will then be paid at the higher rate.

A claim for this allowance may be made for the period of the meeting plus reasonable travelling time. It must be supported by invoices.

Travelling and Subsistence Allowances

Travelling and subsistence allowances are payable to members in respect of expenditure incurred when carrying out an 'approved duty' as listed in Annex 4A. The rates are as follows:

Cars

40p per mile	(first 10,000 miles)
25p per mile	(over 10,000 miles)
5p per mile	(each additional passenger)

Motor Cycles

24p per mile

Bicycles

20p per mile

Subsistence

Breakfast	£6.47
Lunch	£8.92
Tea	£3.49
Dinner	£11.02
Overnight	£105.04 (outside London)
Overnight	£119.80 (London)

Annual Adjustment

The basic, special responsibility, co-optees and subsistence allowances are adjusted annually in line with the NJC pay award. Travel allowances are adjusted in line with Inland Revenue authorised rates.

Approved Duties for Payment of Councillors' Travelling and Subsistence Allowances

Travelling and subsistence allowances are payable to councillors in respect of expenditure incurred when carrying out an "approved duty". The rates are determined by the Council from time to time subject to maximum rates specified by the Secretary of State.

The following are classed as approved duties for the payment of travelling and subsistence allowances, except in any case where such allowances are payable by a body other than the Council.

For the avoidance of doubt, 'attendance' includes attendance by a member of the Council at a meeting (or other activity) of a body for the purpose of participating in that meeting or activity, even where the member is not a member of the body concerned.

- A. Attendance at meetings of
1. The Council.
 2. The Cabinet.
 3. Any decision making Committee established by the Council.
 4. Any Overview and Scrutiny committee or sub-committee, or any working group set up by such committee or sub-committee.
 5. Any advisory group of the Cabinet.
 6. Any partnership body, or other body set up by the Council or the Cabinet for the purpose of consultation with other public or private bodies, or residents of the Borough, on matters relating to the discharge of the authority's functions.
 7. Any joint committee of local authorities to which the Council or the Cabinet appoint members.
 8. Any outside body to which the Council or the Cabinet appoint members, or a committee or sub-committee of such body, except for meetings of
 - the governing body of a school
 - a youth and community organisation
- B. Attendance at conferences, meetings or seminars approved for the purposes described in section 175 of the Local Government Act 1972.
- C. Attendance at site visits and inspections authorised by the Council, the Cabinet, a decision-making committee, an Overview and Scrutiny committee or sub-committee, or a joint committee on which the Council is represented.

- D. Attendance by or at any of the following:
1. Chairs and vice-chairs of decision making committees, Overview and Scrutiny committees or sub-committees, advisory groups or other bodies at pre-committee or agenda meetings, or at informal meetings and working parties between members and officers.
 2. Informal consultations with appropriate councillors (convened by the Chief Executive) on matters associated with the authority's functions where such consultations contribute to the efficient and effective discharge of those functions.
 3. Local Plan working parties.
 4. Political group meetings concerned with the functions of the authority.
 5. Rota visits to Council establishments.
 6. Royal Garden Parties.
 7. Training activities approved in accordance with arrangements made under the authority of the Council or the Cabinet.
 8. Briefing meetings for the following convened by the Chief Executive:
 - (a) Companies, board meetings of companies, trusts and meetings of trustees to which the Council or Cabinet makes appointments or nominations
 - (b) the Association of North East Councils
 - (c) the Tyne and Wear Fire and Civil Defence Authority
 - (d) any joint committee of local authorities to which the Council or the Cabinet appoint members.
 - (e) any partnership body, or other body set up by the Council or the Cabinet for the purpose of consultation with other public or private bodies or residents of the Borough, on matters relating to the discharge of the authority's functions.
 9. Events or activities connected with the functions of the following to which a member has been appointed (or appointed as a substitute member) insofar as such event or activity is approved by the body referred to and may affect the authority's functions, services, policies or programmes:
 - (a) companies and boards of companies and trusts and meetings of trustees, to which the Council or the Cabinet makes appointments or nominations
 - (b) joint committees

- (c) any partnership body, or other body set up by the Council of the Cabinet for the purpose of consultation with other public or private bodies or residents of the Borough, on matters relating to the discharge of the authority's functions.
- E. Work undertaken by the Leader and Deputy Leader of the Council and of the principal opposition group, and by members of the Cabinet, at the Civic Centre and elsewhere in connection with the functions of the authority.
- F. The carrying out of Mayoral duties on behalf of the authority.
- G. Attendance at any meetings, or performance of any duty, in connection with the authority's functions designated by the Chief Executive as qualifying for the payment of travelling and subsistence allowance.

PART 7 - MANAGEMENT STRUCTURE

The Chief Executive heads the authority's officer structure and leads the Corporate Management Team (see also Article 13).

The **Corporate Management Team Group** leads the officer contribution to strategic development and thinking in the Council and is made up of the Chief Executive, the five Strategic Directors, the Director of Public Health and Wellbeing and the Service Director, Office of the Chief Executive.

The Council's services are delivered through the following service groups:

- Resources and Digital
- Corporate Services and Governance
- Children, Adults and Families
- Housing, Environment and Healthy Communities
- Economy, Innovation and Growth
- Public Health and Wellbeing
- Office of the Chief Executive

Within each of the groups are a number of services, each run by a Service Director who takes responsibility for the management of employees.

Resources and Digital

This group provides a comprehensive financial advice and support to all Council functions. It is also responsible for the effective planning and development of strategies for the application of the Council's financial and technology resources, as well as customer, and benefits services, financial and employee management systems, oversight of training and commercialisation activities within the Council and IT services and infrastructure.

Management Structure of the Group

Strategic Director, Resources and Digital
Service Director, Financial Management
Service Director, Customer Experience and Digital
Service Director, IT Services
Service Director, Commercialisation and Improvement

Corporate Services and Governance

This group provides comprehensive legal advice and support to all Council functions. It is also responsible for the effective planning and development of strategies for the application of the Council's Human Resources and Democratic Services.

Management Structure of the Group

Strategic Director, Corporate Services and Governance
Service Director, Legal and Democratic Services
Service Director, Corporate Commissioning and Procurement
Service Director, HR and Workforce Development
Service Director, Public Services Reform

Children, Adults and Families

This group is responsible for a range of adults and children's services designed to provide and facilitate support for everyone to live a safe, healthy and fulfilled life. It also has a significant role working in partnership with other public and independent organisations to ensure the best possible outcomes are achieved for people in Gateshead.

The chief officer roles of Directors of Children's Services and of Adult Social Services are the responsibility of the Strategic Director, Children Adults and Families.

Management Structure of the Group

- Strategic Director, Children, Adults and Families
- Deputy Strategic Director, Children and Families
- Service Director, Adult Social Care
- Service Director, Education, Schools and Inclusion
- Service Director, Quality Assurance and Commissioning (Gateshead System)

Housing, Environment and Healthy Communities

This group brings together the Council's housing, construction, environmental, highways, property and locality management functions and responsibilities. It has overall responsibility for the Council's Housing Revenue Account including the management and maintenance of the Council's housing stock. It also provides a number of commercial and traded services for clients within and outside of the Borough.

Management Structure of the Group

Strategic Director, Housing, Environment and Healthy Communities
Service Director, Group Strategy and Residential Growth
Service Director, Property Assets and Traded Services
Service Director, Highways and Waste
Service Director, Locality Services and Housing Options
Service Director, Environment and Fleet Management
Service Director, Construction Services
Service Director, Voluntary and Community Sector Development

Economy, Innovation and Growth

This Group brings together a number of regulatory functions, development management and building control, spatial and environment planning and transport strategy. In addition, it covers enterprise and industry; employment, skills and inclusion; employment and enterprise services and also major projects and development.

Management Structure of the Group

Strategic Director, Economy Innovation and Growth
Service Director, Climate Change, Compliance, Transport and Planning
Service Director, Business, Employment and Skills
Service Director, Major Projects and Skills

Public Health and Wellbeing

This Group brings together public health, emergency resilience and planning, GO Gateshead, libraires, culture, community safety and allotments.

Management Structure of the Group

Director of Public Health and Wellbeing
2 Consultants in Public Health/Service Directors

Office of the Chief Executive

This group brings together the functions of corporate planning, communications and research and intelligence.

Management Structure of the Group

Service Director, Office of the Chief Executive