



CONSTITUTION OF THE COUNCIL

April 2009 Revision

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Arabic

আকারে এই তথ্যটি পেতে নিচের নম্বরে ফোন করুন:
Bengali

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Chinese

यदि आप यह जानकारी का संक्षेप हिन्दी में चाहते हैं, तो कृपया निचे दिए हुए नम्बर में सम्पर्क करें।
Hindi

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Polish

ਜਾਂ ਤੁਸੀਂ ਇਹੁ ਖ਼ਬਰ ਦਾ ਨਿਚੋੜ ਪੰਜਾਬੀ ਵਿਚ ਚਾਹੁੰਦੇ ਹੋ, ਤਾਂ ਕਿਰਪਾ ਥੱਲੇ ਦਿੱਤੇ ਹੋਏ ਨੰਬਰ ਤੇ ਸੰਪਰਕ ਕਰੋ।
Punjabi

اگر آپ کو یہ معلومات اردو میں درکار ہیں تو اس نمبر پر کال کیجیے۔
Urdu



(0191) 383 5580

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DURHAM COUNTY COUNCIL

CONSTITUTION OF THE COUNCIL

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Part 1

Summary and Explanation

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Summary and Explanation

The Council's Constitution

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

The Constitution is divided into 15 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols towards the end of the document.

What's in the Constitution?

Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and this Constitution. Articles 2 - 15 explain the rights of citizens and how the 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 Executive (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee (Article 9).
- Joint arrangements (Article 10).
- Officers (Article 11).
- Decision making (Article 12).
- Finance, contracts and legal matters (Article 13).
- Review and revision of the Constitution (Article 14).
- Suspension, interpretation and publication of the Constitution (Article 15).

How the Council operates

The Council is composed of 126 councillors elected every four years. Councillors are democratically accountable to the residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct. The Standards Committee also has responsibilities in relation to Town and Parish Councils within County Durham.

All Councillors meet together as the 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 is also responsible for appointing the Leader of the Council who then appoints a Cabinet (together formally entitled "the Executive") and for appointing committees and sub-committees, some of which are responsible for overseeing and reviewing the decisions of the Executive, while others discharge regulatory responsibilities or other functions which by law may not be discharged by the Executive, for example planning and licensing.

How decisions are made

The Executive Leader (who will in practice be called "the Leader") is responsible for most day-to-day decisions. The Leader may delegate decision-making to the Council's Executive, (or Cabinet) and to others. The Executive is made up of the Leader of the Council and up to nine other councillors. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. These key decisions are made at meetings of the Executive, which will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

Overview and Scrutiny

There is one Overview and Scrutiny Management Board and six Scrutiny Committees who support the work of the Executive and the Council as a whole. They allow a wider involvement in Council business by involving non-councillors from the wider public sector, voluntary and community groups to help them in their work. They may make reports and recommendations to the Executive and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Management Board and the other Scrutiny Committees also monitor the decisions of the Executive and the Management Board can "call-in" a decision of the Executive which has been made but not yet implemented. They may recommend that the Executive reconsider their decision. They may also be consulted by the Executive or the Council on forthcoming decisions or the development of policy.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol (to be found in Part 5) governs the relationships between officers and members of the Council.

Citizens' Rights

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- petition the Council, about a matter for which it has responsibility or which affects the County. The Council's protocol for managing and responding to petitions can be found in Part 5 of the Constitution;
- ask questions at Council meetings on matters relevant to the Council's functions;
- find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend meetings of the Executive except where personal or confidential matters are being discussed;
- see reports and background papers, and any record of decisions made by the Council and Executive;

- complain to the Council about the way a service has been delivered or about anything the Council or the Executive have done or propose to do. A copy of the Council's Corporate Complaints Policy and Procedure can be obtained from the Head of Legal and Democratic Services;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Standards Committee if they have evidence which they think shows that a councillor or a parish councillor has not followed their Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of Legal and Democratic Services. A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the Access to Information Procedure Rules in Part 4.

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Part 2

Articles of the Constitution

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Article 1 – The Constitution

1.01 The Constitution

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

1.02 Powers of the Council

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

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create an effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they have been directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community in pursuit of the Council's Mission Statement and its corporate aims as expressed in the Council's Corporate Plan.

1.04 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

1.05 Interpretation of Terms

Throughout this Constitution references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

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Article 2 – Members of the Council

2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise such number of members, otherwise called councillors, as may be elected by the voters of each electoral division in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State as varied by the County Durham (Structural Change) Order 2008 (the 2008 Order).
- (b) **Eligibility.** Only registered voters of the county or those living or working there will be eligible to hold the office of Councillor.

2.02 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years beginning in 2005. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. The 2008 Order has made temporary changes to these arrangements.

2.03 Roles and functions of councillors and co-opted members

- (a) **Key roles**

Councillors and those co-opted to council bodies, will have the roles and functions appropriate to their position, as set out in Part 9 of this Constitution.
- (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 officer 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.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

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Article 3 – Citizens and the Council

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions – Elected Mayor.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Petitions – General Provisions.** Any citizen has the right to present a petition to the Council either at a meeting of the Council or through the Chairman, Leader, Member of the Executive, Committee Chair, Local Member, the Chief Executive or any other Corporate Director. A petition must be in proper language and relate to Council business or to a matter over which the Council has responsibility or which affects the County. The Head of Legal and Democratic Services can give citizens further guidance on this process. Petitions will be managed and responded to in accordance with the Council's protocol, set out in Part 5 of the Constitution.
- (c) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Executive; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
 - (v) ask questions at Council meetings on matters relevant to the agenda.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Council's Standards Committee about a breach of the Councillors' Code of Conduct.

3.02 **Citizens' responsibilities**

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

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Article 4 – The Full Council

4.01 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Council Plan
- Sustainable Community Strategy/Local Area Agreement
- County Durham Local Development Framework (Plans and alterations that together form the Development Plan)
- Children and Young People’s Plan
- Youth Justice Plan
- Local Transport Plan
- Crime and Disorder Reduction Strategy
- Economic Development Strategy
- Housing Strategy
- Licensing Authority Policy Statement
- Statement on Gambling Policy
- Any other plan or strategy which 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.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;

- (c) subject to the urgency procedure contained in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
- (d) appointing and removing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05 and amending, revoking or replacing such a scheme;
- (h) confirming and terminating the appointment of the head of paid service;
- (i) approving the Council's statement of accounts, income and expenditure and balance sheet; and
- (j) those non-executive functions specified as being the responsibility of the Council in Section A of Part 3 of this Constitution;
- (k) all other matters which, by law, must be reserved to the Council.

4.03 Council meetings

There are three types of Council meeting:

- (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.

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Article 5 – Chairing The Council

The Chairman and Vice-Chairman of the Council will be elected by the Council annually. The Chairman and in his absence the Vice-Chairman, will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council;
6. to attend or be represented at such civic and ceremonial functions as the Council and he determines appropriate;
7. to determine any matter referred to him under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution; and
8. to be consulted on any matter in relation to which consultation with the Chairman of the Council is required under this Constitution.

Article 6 – Overview and Scrutiny Arrangements

6.01 Terms of Reference

The Council will appoint the Overview and Scrutiny Management Board and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 and under the Health and Social Care Act 2001 in relation to the matters set out in the right hand column of the same table.

Terms of reference for the Board and Committees are set within the context of the Council Plan, its Forward Plan and the overarching partnership framework namely the Sustainable Communities Strategy (SCS) and its associated delivery plan the Local Area Agreement(LAA).

Neither the Chairman of the Council nor members of the Executive or Executive Support Members may be members of the Overview and Scrutiny Management Board or a Scrutiny Committee.

Committee	Scope
<p>Overview and Scrutiny Management Board</p> <p><i>Membership</i></p> <ul style="list-style-type: none"> • 26 Members of the Council including the Chairs and Vice-Chairs of the 5 Scrutiny Committees; • 5 voting Church and Parent Governor representatives; • 5 non-voting co-optees (one nominated by each Scrutiny Committee from among their own non-voting co-optees). 	<ol style="list-style-type: none"> 1 To oversee and co-ordinate the work of Overview and Scrutiny and its Committees. 2 To ensure effective liaison across the work of the committees re: cross cutting issues. 3 To be the strategic driver of the Overview and Scrutiny function. 4 To consider as appropriate scrutiny member involvement in regional scrutiny arrangements within the context of the Sub National Review/Single Integrated Regional Strategy and associated issues.

Committee	Scope
<p>Overview and Scrutiny Management Board (Cont.)</p>	<p>5 The establishment of appropriate liaison with the Executive in the interests of achieving common aims and continuous improvement for the Council.</p> <p>6 To encourage appropriate community involvement in the Overview and Scrutiny role.</p>
<p>Children and Young People's Scrutiny Committee</p> <p><i>Membership</i></p> <ul style="list-style-type: none"> • 21 Members of the Council; • Chair and Vice-Chair of Overview and Scrutiny Management Board ex officio; • 5 voting church and parent governor representatives; • up to 5 non-voting co-optees to include young people. 	<ul style="list-style-type: none"> • Education • Social Services for Children and Young People • Looked after children. <p>Relevant SCS and LAA (long term goals) themes:</p> <ul style="list-style-type: none"> • Improved attainment in education and work for people of all ages; • More young people are involved in employment, education or training; • All residents lead long and healthy lives; • Strong cohesive communities.

Committee	Scope
<p>Safer and Stronger Communities Scrutiny Committee</p> <p><i>Membership</i></p> <ul style="list-style-type: none"> • 21 Members of the Council; • Chair and Vice-Chair of Overview and Scrutiny Management Board ex officio; • Up to 5 non-voting co-optees. 	<ul style="list-style-type: none"> • Community Safety • Community Development • Social Inclusion • Equalities and Diversity • Culture and Leisure • Lifelong Learning <p>Relevant SCS and LAA (long term goals) themes:</p> <ul style="list-style-type: none"> • Improve public reassurance in relation to crime and anti-social behaviour. • Reduce the number of violent crimes. • Reduce harm caused by alcohol. • Tackle domestic abuse. • Reduce re-offending. • Ensure we have safer roads.

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Committee	Scope
<p>Environment and Sustainable Communities Scrutiny Committee</p> <p><i>Membership</i></p> <ul style="list-style-type: none"> • 21 Members of the Council; • Chair and Vice-Chair of Overview and Scrutiny Management Board ex officio; • Up to 5 non-voting co-optees. 	<ul style="list-style-type: none"> • Local Environment • Protection of the Environment • Neighbourhood Services • Sustainable Communities • Housing <p>Relevant SCS and LAA (long term goals) themes:</p> <ul style="list-style-type: none"> • A high quality clean, green, attractive and accessible environment. • A high quality local built and historic environment that meets the needs of communities. • Sustainable housing that meets people's needs, in particular those of vulnerable groups • Better choice and access to sustainable and integrated transport networks. • A balanced natural environment with a reduced impact on climate change. • Strong, cohesive communities.

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Committee	Scope
<p>Economy and Enterprise Scrutiny Committee</p> <p><i>Membership</i></p> <ul style="list-style-type: none"> • 21 Members of the Council; • Chair and Vice-Chair of Overview and Scrutiny Management Board ex officio; • Up to 5 non-voting co-optees. 	<ul style="list-style-type: none"> • Economic development and regeneration • Transport planning and public transport <p>Relevant SCS and LAA (long term goals) themes:</p> <ul style="list-style-type: none"> • A modern, dynamic and diverse economy • An enterprising and entrepreneurial society • Improved employability and skills of our workforce • A reduction in poverty • Improved economic competitiveness of our major towns.
<p>Adults, Well Being and Health Scrutiny Committee</p> <p><i>Membership</i></p> <ul style="list-style-type: none"> • 21 Members of the Council; • Chair and Vice-Chair of Overview and Scrutiny Management Board ex officio; • Up to 5 non-voting co-optees. 	<ul style="list-style-type: none"> • Adult Social Services • Health Services <p>Relevant SCS and LAA (long term goals) themes:</p> <ul style="list-style-type: none"> • Reduce death rates • Increase the numbers of residents enjoying physical wellbeing • Increase the numbers of residents enjoying mental wellbeing • Ensure that we support and protect vulnerable people.

Committee	Scope
<p data-bbox="245 323 621 390">Corporate Issues Scrutiny Committee</p> <p data-bbox="245 428 415 459"><i>Membership</i></p> <ul data-bbox="298 499 740 741" style="list-style-type: none"> <li data-bbox="298 499 716 531">• 21 Members of the Council; <li data-bbox="298 569 740 669">• Chair and Vice-Chair of Overview and Scrutiny Management Board ex-officio; <li data-bbox="298 707 732 741">• Up to 5 non-voting co-optees. 	<ul data-bbox="829 323 1271 1278" style="list-style-type: none"> <li data-bbox="829 323 1162 390">• To consider corporate management <li data-bbox="829 428 1260 600">• To assist the Executive in the development of the Council's annual budget and to review and scrutinise budgetary management; <li data-bbox="829 638 1235 810">• To assist the Executive in ensuring the provision of efficient and effective corporate management and support arrangements. <li data-bbox="829 848 1260 949">• To assist the Executive in the development of asset management. <li data-bbox="829 987 1252 1121">• To consider the Council Plan and the Forward Plan and to monitor performance against these plans. <li data-bbox="829 1159 1271 1278">• To deal with petitions in accordance with the Council's protocol as set out in Part 5 of this Constitution.

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6.02 General role

Within their terms of reference, the Overview and Scrutiny Management Board and Scrutiny Committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive in accordance with the Overview and Scrutiny Procedure Rules.
- (v) work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (vi) promote equality and diversity across all of its work and the work of the County Council.

6.03 Specific functions

(a) Policy development and review.

The Overview and Scrutiny Management Board and Scrutiny Committees may:

- (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) question Members of the Executive and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area; and
- (iv) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (v) consider the impact of policies to assess if they have made a difference.

(b) **Scrutiny**

The Overview and Scrutiny Management Board and Scrutiny Committees may:

- (i) review and scrutinise the decisions made by and performance of the Executive and/or Committees and council Officers in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Members of the Executive and/or Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Management Board or Scrutiny Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) **Finance**

The Overview and Scrutiny Management Board will exercise overall responsibility for the budget allocated to the function.

(d) **Annual report**

The Overview and Scrutiny Management Board must report annually to full Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

6.04 **Proceedings of Overview and Scrutiny Bodies**

The Overview and Scrutiny Management Board and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 – The Executive

7.01 Form and composition

The Executive will consist of a Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader, one of whom shall be designated by the Leader as the Deputy Leader.

7.02 Leader

The Leader of the Council will be a councillor elected to that position by the Council at their annual meeting in 2009. The Leader will hold office until the day of the post-election annual meeting following his election, unless before that date:

- (a) he resigns from the office; or
- (b) he is suspended from being a councillor under Part III of the Local Government Act 2000 (although he may resume office at the end of the period of suspension unless he has during that period been removed from office under sub-paragraph (d) below); or
- (c) he is no longer a councillor; or
- (d) he is removed from office by resolution of the Council in accordance with the Council Procedure Rules in Part 4 of this Constitution.

7.03 Deputy Leader

The Deputy Leader will hold office until the end of the term of office of the Leader, unless before that date:

- (a) he resigns from office; or
- (b) he is suspended from being a councillor under Part III of the Local Government Act 2000 (although he may resume office at the end of the period of suspension unless he has, during that period, been removed from office by the Leader); or
- (c) he is no longer a councillor; or
- (d) he is removed from office by the Leader.

7.04 **Other Executive Members**

Other Executive Members will hold office for such period as the Leader shall determine unless during that period:

- (a) they resign from office; or
- (b) 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 unless they have, during that period been removed from office by the Leader); or
- (c) they cease to be councillors.

7.05 **Vacancies or Inability to Act**

- (a) Where a vacancy occurs in the office of Deputy Leader, the Leader will appoint another person in his place;
- (b) If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader will act in his place;
- (c) if for any reason:
 - (i) the Leader is unable to act or the office of Leader is vacant and
 - (ii) the Deputy Leader is unable to act or the office of Deputy Leader is vacant,

the Executive will act in the Leader's place or arrange for a member of the Executive to act in his place.

7.06 **Responsibility for functions**

- (a) The Leader may discharge any executive function of the Council.
- (b) The Leader may arrange for the discharge of any executive function
 - (i) by the Executive;
 - (ii) by another member of the Executive;
 - (iii) by a committee of the Executive, or
 - (iv) by an officer of the Council
- (c) At the direction of the Leader, the Head of Legal and Democratic Services will maintain a list in Part 3 of this Constitution indicating who has responsibility for the exercise of particular executive functions.

7.07 Proceedings of the Executive

Proceedings of the Executive will take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

7.08 Executive Support Members– appointment and functions

- (a) The Leader may appoint and remove at his discretion up to 10 councillors to be Executive Support Members, to support and assist the Executive as a whole or individual members of the Executive,
- (b) Executive Support Members may not also be members of any Overview and Scrutiny Committee, Audit or Planning Committee or the Chairman of the Council,
- (c) Executive Support Members may not substitute or represent an Executive Member at meetings of the Executive or a committee of the Executive, or require an item to be placed on the agenda of such meetings; nor may they exercise any executive function delegated to an Executive Member.

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Article 8 – Non-Executive and Regulatory Committees

8.01 Appointment

The Council will appoint the Committees set out in the first column of the table in Section A of Part 3 of this Constitution to discharge the functions described in the third column of that table.

8.02 Sub-Committees etc.

The committees appointed pursuant to Article 8.01 may appoint sub-committees or panels to consider and, where appropriate, determine any matter falling within the remit of the committee.

8.03 Co-options

The committees appointed pursuant to Article 8.01 may co-opt to their membership or the membership of any sub-committee or panel, person(s) from outside the Council having an interest in the business of the committee, sub-committee or panel but such co-opted person(s) may not vote on any matter.

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Article 9 – The Standards Committee

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

The Standards Committee will be composed of 12 councillors (who may not include the Leader or more than one Cabinet member) 6 persons who are not councillors or officers of the Council or any other body having a Standards Committee (the independent members) and 6 members of parish or town councils within the County. The independent members and parish and town council members will be entitled to vote at meetings. An independent member will chair the Committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, independent members and co-opted members;
- (b) assisting the councillors, independent members, co-opted members and parish and town council members to observe the Members' Code of Conduct and where appropriate the Planning Code of Practice;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct and the Planning Code;
- (d) monitoring the operation of the Members' Code of Conduct and Planning Code;
- (e) advising, training or arranging to train councillors, independent members, co-opted members and parish and town council members on matters relating to the Members' Code of Conduct and Planning Code;
- (f) granting dispensations to councillors, independent members, co-opted members and parish and town council members from requirements relating to interests set out in the Members' Code of Conduct and Planning Code;
- (g) the exercise of any functions under regulations made under section 54(4) of the Local Government Act 2000;

- (h) the assessment, investigation and determination of allegations of misconduct on the part of Members;
- (i) dealing with any alleged breach by a Member of a council protocol, in accordance with procedures approved by the Committee;
- (j) overview of probity aspects of internal and external audit;
- (k) overview of the Officers' Code of Conduct;
- (l) overview of the Protocol on Member/Officer Relations;
- (m) overview of the Council's Confidential Reporting Code;
- (n) overview of complaints handling and Ombudsman investigations;
- (o) power to make payments or provide other benefits in cases of maladministration etc.;
- (p) power to grant exemptions on the political restriction of officer posts;
- (q) the exercise of (a) – (h) in relation to parish and town council members.

9.04 **Parish and Town Council Sub-Committee**

The Standards Committee will appoint a sub-committee comprising 3 councillors, 3 parish/town council members and 3 independent members. The remit of the sub-committee will be to support parish and town councillors and their clerks in maintaining high standards of conduct, whether through training or otherwise, and for this purpose to maintain close links with the County Durham Association of Local Councils.

Article 10 – Joint Arrangements

10.01 Arrangements to promote well being

The Executive, in order to promote the economic, social or environmental well-being of the County 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; and
- (c) exercise on behalf of that person or body any functions of that person or body.

10.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive 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. Except as set out below, or as permitted or required by law the Executive may only appoint Executive Members to such joint committees and those members need not reflect the political composition of the Council as a whole.
- (c) The Executive may appoint members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the county by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (d) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegations in Part 3 of this Constitution.

10.03 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 members of the executive in each of the participating authorities then its access to information regime is the same as that applied to an executive, subject to any contrary provision agreed among the participating authorities as permitted by law.
- (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.

10.04 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 Executive 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 shall be reserved to the Council meeting.

10.05 Contracting out

The Council (for functions which are not executive functions) and the Executive (for executive functions) 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 contacting arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

10.06 Partnerships

The Council will maintain and regularly review a register of partnerships in which the Council participates. Reviews will be undertaken in accordance with the Council's Partnership Performance Management Framework to assess and evaluate the governance and effectiveness of each partnership.

Article 11 – Officers

11.01 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated Chief Officers:

Post	Main Functions and areas of responsibility
Chief Executive	<ul style="list-style-type: none"> • Overall corporate management and operational responsibility (including overall management responsibility for all officers) • Principal adviser to the Council on general policy • Overall responsibility for delivering the Council's policies and programmes • Provision of professional advice to all parties in the decision-making process
Assistant Chief Executive	<ul style="list-style-type: none"> • Communications • Corporate Policy, Planning and Improvement • Community Engagement, Community Development and Area Action Partnerships • Equalities, Diversity and Cohesion • Performance Management and Research Information • Partnership Co-ordination and support for the County Local Strategic Partnership • Overview and Scrutiny • Civil Contingencies
Corporate Director Adults, Wellbeing & Health	<p>Adult Care Services including:</p> <ul style="list-style-type: none"> • In-House Care Provision • Integrated Social Work/Health Teams • Adult Protection • Carers <p>Commissioning Adult Care Services including:</p> <ul style="list-style-type: none"> • Supporting People • Commissioning and Contracts: Older People, Mental Health, Learning Disability, People with a Disability • Sensory Support • Personalisation <p>Libraries, Learning Culture Services including:</p> <ul style="list-style-type: none"> • Adult and Family Learning • Museums • Culture and Arts, Theatres, Galleries • Archives and Records • Events Management

Post	Main Functions and areas of responsibility
Corporate Director Adults, Wellbeing & Health (Cont.)	<p>Libraries Social Inclusion Services including:</p> <ul style="list-style-type: none"> • Health Improvement • Prevention • Community Safety • Gypsy and Travellers • Welfare Rights • Specialist Service User Involvement • LINK • Substance Misuse • Partnership Boards • Client Related Financial Services • Strategic Needs Assessment
Corporate Director Children & Young People's Services	<p>Access and Inclusion Services including:</p> <ul style="list-style-type: none"> • Learning Support Services • School Attendance • School Admissions <p>Achievement Services including:</p> <ul style="list-style-type: none"> • Education Development Services • School and Governor Support • Building Schools for the Future • School Place Planning • Schools Capital <p>Extended Services including:</p> <ul style="list-style-type: none"> • SureStart/Early Years • Youth Services • Connexions • Youth Offending Services <p>Safeguarding and Specialist Services including:</p> <ul style="list-style-type: none"> • Local Safeguarding Children's Board • Corporate Parenting • Disability Services • Secure Services • Children in Need <p>Strategic Commissioning including:</p> <ul style="list-style-type: none"> • Performance Management • Children's Trust • Health and Safety • Workforce Planning

Post	Main Functions and areas of responsibility
Corporate Director Regeneration & Economic Development	Strategic Planning Policy Planning Applications and Appeals Building Control Mineral and Waste Applications Conservation, Archaeology & Ecology Environment Policy Sustainability & Climate Change Economic Policy & Programmes Economic Development Economic Regeneration Employability Business Services County Durham Development Company Housing Strategy & Policy Durham City Homes Housing Renewal and Improvement Prevention & Resolution of Homelessness Strategic Traffic Management Local Transport Planning Network Management Parking Policy Integrated Transport Unit Policy, Planning & Performance Management Countryside & Rights of Way
Corporate Director Neighbourhood Services	Access & Customer Services Strategy Business Regulation including: <ul style="list-style-type: none"> • Trading Standards • Environmental Health • Licensing • Car Parking Enforcement • Scientific Services Leisure – Sports, Leisure & Recreation including Leisure Centres Neighbourhood Services including: <ul style="list-style-type: none"> • Highway Maintenance • Street Lighting • Street Cleansing • Public Realm/Open Space Maintenance • Bereavement Services • Building Services • Housing Maintenance • Neighbourhood Wardens • Parking Control

Post	Main Functions and areas of responsibility
Corporate Director Neighbourhood Services (Cont.)	<ul style="list-style-type: none"> • Operational Community Safety • Waste Collection & Recycling • Fleet Management <p>Local Traffic Management/Road Safety Waste Management Policy, Planning & Performance Management</p>
Corporate Director Resources	<p>Financial Management</p> <p>Council Tax Collection & Housing Benefits (Revs & Bens)</p> <p>Legal Services</p> <p>Estates & Property</p> <p>Corporate Procurement</p> <p>Human Resources & Organisational Development</p> <p>Information & Communication Technology</p> <p>Democratic Services</p> <p>Electoral Services</p> <p>Members' Services</p> <p>Land Charges</p> <p>Registration of Births, Deaths & Marriages</p> <p>Coroners</p>

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director, Resources	Chief Finance Officer
Head of Legal & Democratic Services	Monitoring Officer

Such posts will have the functions described in Article 11.02 – 11.04 below.

11.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

11.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an executive function if he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper Officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

- (g) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework, and whether any particular decision or proposed decision constitutes a key decision.
- (h) **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 and will support and advise councillors and officers in their respective roles.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- (j) **Protocol.** In carrying out his functions the Monitoring Officer will observe such protocols as shall from time to time be approved by the Standards Committee.

11.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if he 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.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (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 officers 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.

11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

11.07 Employment

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

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Article 12 – Decision Making

12.01 Responsibility for decision making

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

12.02 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due regard to all relevant and material considerations and disregard of irrelevant considerations;
- (c) due consultation and the taking of professional advice from officers;
- (d) respect for human rights;
- (e) a presumption in favour of openness;
- (f) clarity of aims and desired outcomes; and
- (g) the giving of reasons for decisions.

12.03 Types of decision

- (a) 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.
- (b) Key decisions.
 - (i) A key decision is a decision by or on behalf of the Executive which is likely:
 - To have a significant impact on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected or
 - To be perceived as being in conflict with any plan, policy or strategy approved by the Council or

- To be perceived as being in conflict with one or more of the Council's strategic objectives/priorities for improvement or
 - To result in the Council incurring revenue expenditure or making savings in excess of £1 million or 5% of the relevant service budget (whichever is lower) or
 - To result in the Council incurring capital expenditure in excess of £2 million.
- (ii) Key decisions will be made in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.
- (c) For the purposes of paragraph 12.03(b) above, the incurring of expenditure is not a key decision, if it is:-
- (i) to implement or give effect to a provision of the Council's Budget or Policy Framework and, where appropriate, for which financial provision has been made;
 - (ii) to implement nationally or provincially agreed pay awards for officers of the Council in accordance with the terms of such award;
 - (iii) expenditure incurred by the Corporate Director, Resources in the exercise of Treasury Management powers delegated to him.
- (d) For the purposes of paragraph 12.03(b) above, any decision taken for the purpose of implementing an approved plan or strategy is not a key decision if it relates to a matter for which the plan or strategy makes provision.

12.04 Decision making by the full Council

Subject to Article 12.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.05 Decision making by the Executive

Subject to Article 12.08, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.06 Decision making by Overview and Scrutiny Committees

The Overview and Scrutiny Management Board and the Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.07 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 12.08, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

12.08 Decision making by Council bodies acting as tribunals

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

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Article 13 – Finance, Contracts and Legal Matters

13.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

13.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution and with the Procurement Code of Practice.

13.03 Legal proceedings

The Head of Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or a chief officer acting under delegated powers or in any case where he considers that such action is necessary to protect the Council's interests.

13.04 Authentication of documents

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal and Democratic Services or other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- (b) Any contract with a value exceeding £10,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the Council or made under the Common Seal of the Council attested by at least one authorised officer.
- (c) Chief Officers shall determine which persons within their service areas are authorised to sign contracts on behalf of the Council and shall notify the Head of Legal and Democratic Services of the names of those persons so authorised whose names shall be kept in a list maintained by the Head of Legal and Democratic Services.

13.05 Common Seal of the Council

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Democratic Services or some other person authorised by him.
- (b) Details of every deed and other document to which the Common Seal is to be affixed shall be entered prior to the time of its sealing or as soon as practicable thereafter by the Head of Legal and Democratic Services in a book to be maintained for that purpose and the book shall be signed by the person attesting the affixation of the Common Seal.

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Article 14 – Review and Revision of the Constitution.

14.01 Duty to monitor and review the constitution

The Head of Legal and Democratic Services will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. In undertaking this task the Head of Legal and Democratic Services may:

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

14.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Head of Legal and Democratic Services in consultation with the Executive and the Overview and Scrutiny Committee.
- (b) **Change from a leader and cabinet form of executive to another form of executive or vice versa.** The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.
- (c) Changes to Part 3 of this Constitution (Responsibility for Functions) may be made as set out therein or as permitted by law.

Article 15 – Suspension, Interpretation and Publication of the Constitution

15.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Procedure Rules in Part 4 may be suspended by the full Council to the extent permitted therein and by law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

15.02 Interpretation

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

15.03 Publication

- (a) The Head of Legal and Democratic Services will give a printed copy of this Constitution to each member of the Council upon delivery to him of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Head of Legal and Democratic Services will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of Legal and Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is 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 Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Joint arrangements);
4. Article 12 (Decision making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions) insofar as it relates to executive functions.

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Part 3

Responsibility for Functions

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PREFACE

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, by law, may not be 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 an officer.

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.

3 Executive functions

All other functions are executive functions. Decisions on these functions will be taken by the Leader unless they are delegated in accordance with Article 7 or dealt with under joint arrangements.

Officer Delegations and Joint Arrangements are also contained in this part of the Constitution.

Interpretation

In this part of the Constitution:

"the 2000 Act" means the Local Government Act ,2000

"the 2000 Regulations" means the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000

"the 2007 Act" means the Local Government and Public Involvement in Health Act, 2007

"the 1972 Act" means the Local Government Act ,1972.

A. RESPONSIBILITY FOR NON-EXECUTIVE OR COUNCIL FUNCTIONS

* Denotes a local choice function.

Council Body	Membership	Functions
Full Council	All 126 Members	<ol style="list-style-type: none"> 1. Subject to any provision of regulations under section 20 (joint exercise of functions) of the 2000 Act, the functions of - <ol style="list-style-type: none"> (a) making arrangements for the discharge of functions by a joint committee or officer under section 101(5) of the 1972 Act; and (b) making appointments under section 102 (appointment of committees) of the 1972 Act. 2. Functions relating to elections as set out in Section D of Schedule 1 to the 2000 Regulations 3. Functions relating to name and status of areas and individuals as set out in Section E of Schedule 1 to the 2000 Regulations. 4. Functions relating to changing governance arrangements as set out in Section EA of Schedule 1 to the 2000 Regulations. 5. Making an order giving effect to recommendations made in a community governance review under section 86 (reorganisation of community governance) of the 2007 Act. 6. Functions relating to community governance as set out in Section EB of Schedule 1 to the 2000 Regulations. 7. Power to make, amend and revoke byelaws. 8. Promotion or opposition of local or personal Bills. 9. Power to make standing orders. 10. Power to make standing orders as to contracts. 11. Powers in relation to staff under section 112 of the 1972 Act unless delegated to a committee or an officer. 12. Duty to make arrangements for the proper administration of the Council's financial affairs. 13. Appointment of "proper officers" for particular purposes under the 1972 Act. 14. Duty to designate an officer as the head of the council's 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.

Council Body	Membership	Functions
Full Council (cont.)	All 126 Members	<p>15. Functions relating to sea fisheries.</p> <p>*16. The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.</p> <p>*17. The making of appointments to the Joint Committee for the appointment of members to Durham Police Authority.</p>
County Planning Committee	16 Members of the Council excluding Members of the Executive	<p>Except where the matter is delegated to an officer:</p> <ol style="list-style-type: none"> 1. To exercise the Council's functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations, in relation to the following matters: <ul style="list-style-type: none"> • Residential development proposals involving 200 or more dwellings or a site area of 4 hectares or more. • All non-residential development proposals (including commercial, retail and industrial developments) of 10,000 or more square metres floor space or a site area of 2 hectares or more. • All development proposals relating to minerals or waste. • Developments of strategic significance promoted by the County Council.
<p>Area Planning Committee (North Durham) (comprising the former District Council areas of Derwentside and Chester-le-Street)</p> <p>Area Planning Committee (Central and East Durham) (comprising the former District Council areas of Durham City and Easington)</p> <p>Area Planning Committee (South and West Durham) (comprising the former District Council areas of Sedgfield, Teesdale and Wear Valley).</p>	16 Members of the Council comprising 8 Members representing Electoral Divisions within the Committee's area and 8 other Members excluding Members of the Executive.	<p>Except where the matter is delegated to an officer, Area Planning Committees will have the following functions for their areas:</p> <ol style="list-style-type: none"> 1. Functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations unless those matters fall within the remit of the County Planning Committee. 2. Power to make limestone pavement order. 3. Powers relating to the protection of important hedgerows. 4. Powers relating to the preservation of trees. 5. Powers relating to complaints about high hedges.

Council Body	Membership	Functions
Highways Committee	21 Members of the Council.	<ol style="list-style-type: none"> 1. Functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the 2000 Regulations in cases where objections have been made and not withdrawn. 2. Providing guidance to the Corporate Director, Neighbourhood Services and the Corporate Director, Regeneration and Economic Development as appropriate, in relation to the exercise of delegated functions under the Road Traffic Regulation Act 1984, where objections have been made and not withdrawn. 3. Any other non-executive functions specified in the 2000 Regulations relating to highways or public rights of way which require a statutory notice or consultation and where objections have been made and not withdrawn.
Statutory Licensing Committee	15 Members of the Council	<ol style="list-style-type: none"> 1. To review and make recommendations to Council upon policies in relation to licensing matters under the Licensing Act 2003 and the Statement of Licensing Policy. 2. To discharge the Council's functions as a Licensing Authority under the Licensing Act 2003, within agreed policy. 3. To review and make recommendations to Council upon policies in relation to licensing matters under the Gambling Act 2005 and the Statement of Principles. 4. To discharge the Council's functions as a Licensing Authority under the Gambling Act 2005, within agreed policy. 5. To arrange for the discharge of any of the Licensing functions exercisable by the Committee by an Officer of the Licensing Authority subject to the limitations set out in section 10(4) of the Licensing Act 2003 and section 154 of the Gambling Act 2005. 6. To discharge any other function of the Council which relates to a matter which is a licensing function under the Licensing Act 2003 or the Gambling Act 2005, but which is not such a licensing function after consideration of a report from the committee within whose remit that other function falls.
Statutory Licensing Sub-Committee	3 Members of the Statutory Licensing Committee appointed by the Head of Legal and Democratic Services on a rota basis. The quorum for meetings of this Sub-Committee shall be 3.	To discharge all of the functions of the Statutory Licensing Committee except policy development and matters delegated to officers.

Council Body	Membership	Functions
General Licensing and Registration Committee	40 Members of the Council, including the 15 Members of the Statutory Licensing Committee	<ol style="list-style-type: none"> 1. To review and make recommendations to the Council where appropriate on policies in relation to the licensing and registration functions set out below. 2. Except where the matter is delegated to the Statutory Licensing Committee or the Highways Committee or to an officer: <ol style="list-style-type: none"> (a) To discharge the Council's licensing, registration and regulatory functions as set out in Section B of Schedule 1 to the 2000 Regulations, in relation to: <ul style="list-style-type: none"> • hackney carriages and private hire vehicles; • common land and town and village greens; • sex shops and sex cinemas; • market and street trading; (b) Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. 3. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area.

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Council Body	Membership	Functions
<p>Area General Licensing and Registration Sub-Committee (North Durham) (comprising the former District Council areas of Derwentside and Chester-le-Street)</p>	<p>Each Sub-Committee shall comprise 8 Members of the General Licensing and Registration Committee.</p>	<p>To discharge within their area those functions of the General Licensing and Registration Committee set out in paragraph 2 of the Committee's list of functions.</p>
<p>Area General Licensing and Registration Sub-Committee (Central and East Durham) (comprising the former District Council areas of Durham City and Easington)</p>	<p>Where practicable, the majority of (but not all) Members on each Area Sub-Committee shall be Members representing Electoral Divisions within the area concerned. The Head of Legal and Democratic Services will determine membership of the</p>	<p>The Sub-Committees may, in case of urgency, or at the request of the applicant deal with matters outside their geographical area.</p>
<p>Area General Licensing and Registration Sub-Committee (South and West Durham) (comprising the former District Council areas of Sedgefield, Teesdale and Wear Valley)</p>	<p>Sub-Committees to achieve this objective, where the agreement of the relevant political groups cannot be obtained.</p> <p>The quorum for meetings of these Sub-Committees shall be 5.</p>	

Committee	Membership	Functions
Audit Committee	<p>5 Members of the Council excluding members of the Executive and Executive Support Members</p> <p>2 co-opted non-voting members</p> <p>A chair of the Overview and Scrutiny Board Committee or other Scrutiny Committees or of the Standards Committee may not chair the Audit Committee.</p>	<p>The Audit Committee is an advisory committee to the Council and the Executive on audit and governance issues in order to provide independent assurance over the adequacy of the Council's risk management framework and associated control environment. In particular the Audit Committee will:-</p> <p>on audit matters:</p> <ol style="list-style-type: none"> 1. consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements; 2. consider summaries of Internal Audit reports on a quarterly basis; 3. consider reports dealing with the performance of the Internal Audit service; 4. consider a report from Internal Audit on agreed audit recommendations not implemented within a reasonable timescale; 5. consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance; 6. consider specific reports as agreed with the External Auditor; 7. consider the External Audit plan, comment on the scope and depth of external audit work, and to ensure it gives value for money; 8. review the appointment of the Council's External Auditor; 9. within available resources be able to request work from Internal and External Audit. <p>on governance issues:</p> <ol style="list-style-type: none"> 10. maintain an overview of the Council's Constitution in respect of changes to contract procedure rules and financial procedure rules; 11. review any issue referred to it by the Chief Executive or a chief officer, or any Council body; 12. monitor the effective development and operation of risk management and overall corporate governance in the Council;

<p>Audit Committee (Cont'd)</p>		<p>13. monitor the operation of the Council's anti-fraud and anti-corruption policies and strategy;</p> <p>14. review the draft of the Council's Annual Governance Statement and recommend its adoption;</p> <p>15. consider the Council's arrangements for corporate governance and recommend actions to ensure compliance with best practices;</p> <p>on annual accounts matters:</p> <p>16. review the annual statement of accounts;</p> <p>17. to comment on the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.</p>
<p>Corporate Parenting Panel</p>	<p>40 Members of the Council</p>	<p>1. To monitor and ensure the quality of services to children and young people for whom the Council has a corporate parenting responsibility including:</p> <ul style="list-style-type: none"> • Young people in residential care • Children and young people in foster care • Children placed for adoption • Young people who are care leavers • Children in Need of protection • Aycliffe Secure Services • Young people in custody <p>2. To undertake in conjunction with appropriate officers visits to registered children's homes in accordance with statutory requirements and to make and consider reports on such visits.</p>

Committee	Membership	Functions
<p>Appeals and Complaints Committee</p>	<p>21 Members of the Council</p> <p>Individual appeals or complaints hearings will be conducted through an Appeals Sub-Committee comprising 3 Members of the Committee appointed by the Head of Legal and Democratic Services on a rota basis. The quorum for meetings of this Sub-Committee shall be 3.</p>	<p>*The determination of an appeal made against any decision made by or on behalf of the Council including staff disciplinary and grievance appeals.</p> <p>Consideration of complaints under Stage 3 of the Council's Corporate Complaints Policy and Procedure, where referred by the Head of Legal and Democratic Services.</p>
<p>Human Resources Committee</p>	<p>21 Members of the Council</p>	<ul style="list-style-type: none"> • To discharge the Council's functions relating to local government pensions other than policy formulation and review. • To oversee and promote arrangements for member development and support.
<p>Chief Officer Appointments Committee</p>	<p>11 Members of the Council including the Leader and Deputy Leader</p>	<p>Appointment and dismissal of the Chief Executive (subject to confirmation by the full council), chief officers and deputy chief officers, and associated functions under Section 112 of the Local Government Act, 1972 in relation to those officers.</p>

Pension Fund Committee	<p>11 Members of the Council</p> <p>2 Members appointed by Darlington Borough Council</p> <p>1 Member representing the Further Education Colleges</p> <p>1 Member drawn from other statutory bodies including Police, Fire, Probation, Town and Parish Councils</p> <p>1 Member representing Admitted Bodies</p> <p>2 scheme member representatives</p>	<p>Powers and duties arising from Section 7 of the Superannuation Act 1972 and Regulations made thereunder including:</p> <ul style="list-style-type: none"> • approval of applications from bodies seeking admission to the Local Government Pension Scheme; • appointment of external investment managers and advisers.
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Certain non-executive functions have been delegated to officers. Details of those delegations can be found in the Tables in Section C of this Part. The committees set out above may from time to time add to or alter those delegations, as appropriate, within their functional responsibilities.

B. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Executive functions are all of the Council's functions which are not the responsibility of any other part of the Council, by law or under this Constitution, together with the following local choice executive functions:

- The appointment of any individual –
 - to any office other than an office in which he is employed by the authority;
 - to any body other than –
 - (i) the authority;
 - (ii) a joint committee of two or more authorities; or
 - to any committee or sub-committee of such a body,

and the revocation of any such appointment.
- The making of agreements with local authorities and other bodies for the placing of staff at the disposal of those other authorities or bodies.
- Functions under sections 106, 110, 111 and 113 of the 2007 Act relating to local area agreements.
- Local Act functions not delegated to an officer.

The Leader is responsible for the discharge of executive functions and may delegate those functions as set out in Article 7 of this Constitution.

The table below indicates how the Leader has allocated portfolios (lead responsibilities) for particular executive functions among individual members of the Executive. Portfolio holders do not have delegated powers.

Durham County Council Cabinet Portfolios 2009 – 2010

Portfolio	Description	Corporate Plan Priority outcomes for improvement
_____	TO BE COMPLETED	_____

Certain executive functions have been delegated to officers. Details of these delegations can be found in the Tables in Section C of this Part. The Leader (or, where the Leader has arranged for the discharge of executive functions by the Executive, the Executive) may from time to time add to or alter these delegations.

C. OFFICER SCHEME OF DELEGATIONS

Table 1

General Delegations to all Chief Officers

1. The Chief Officers referred to in this scheme of delegations are those set out in Article 11 of this Constitution.
2. Chief Officers are empowered to carry out those specific functions of the Council delegated to them in the scheme of delegation.
3. Functions are to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
4. In exercising their delegated powers Chief Officers may:-
 - (a) Incur expenditure including the making of contributions to outside bodies whose objects are complementary to the work of the Council.
 - (b) In consultation, where appropriate, with the relevant Cabinet Portfolio Member, set and vary as necessary fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval.
 - (c) deal with the following employment issues in accordance with the Council's procedures:
 - (i) engage, suspend, dismiss and deploy staff up to and including Head of Service level;
 - (ii) take disciplinary action against staff;
 - (iii) apply conditions of service in accordance with the Council's policies;
 - (iv) permanently regrade posts up to and including Head of Service level with the approval of the Corporate Director Resources.
 - (v) make establishment changes up to Head of Service level;
 - (vi) deal with applications for regrading up to and including final appeal, ensuring that the person hearing the final appeal has had no previous involvement in the matter;

- (d) Deploy other resources within their control.
 - (e) Within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Contract Procedure Rules.
 - (f) Serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences in the exercise of any discretionary power or in complying with any duty of the Council.
 - (g) Exercise virement within the financial limits contained in the Financial Procedure Rules.
 - (h) Provide services to other local authorities and organisations.
 - (i) Respond to consultations from Government departments and other public bodies.
 - (j) Request the Head of Legal and Democratic Services to enforce any bye-laws relevant to their service area.
5. In exercising their delegated powers Chief Officers must act within the law, the Council's Constitution, its Financial Procedure Rules and other procedures and policies and within appropriate service budgets.
6. In exercising their delegated powers the Chief Officers will:-
- (a) Consult the relevant Cabinet Portfolio Member as appropriate.
 - (b) Consult any appropriate Chief Officer or relevant Head of Service, in particular where there are significant financial, legal, property or HR implications of the proposed action or decision.
 - (c) Keep a formal record of the exercise of the delegated power and of the consultation undertaken in accordance with guidance issued by the Head of Legal and Democratic Services.
 - (d) Make the record available on request to:-
 - (i) the public, provided this does not mean the release of confidential or exempt information; and
 - (ii) any member of the Council provided this does not involve the release of confidential or exempt information to which the Member is not entitled.
 - (iii) the Chief Executive and Head of Legal and Democratic Services.

7. Each Chief Officer shall act as the designated Proper Officer for the following functions under the Local Government Act 1972:-
 - (a) To identify which background papers disclose facts on which a particular report or an important part of the report is based (Section 100(d)(v)(a) of the Act).
 - (b) To prepare a list of background papers and to make arrangements for production of copies of background papers (Section 100(d)(i)(a) and (b) of the Act) (such delegation relates to the Chief Officer(s) in whose name(s) the report is prepared).
8. Chief Officers may authorise officers within their Service area to exercise powers delegated to them. Chief Officers must maintain proper records of such authorisation. The Chief Officer shall remain accountable for any action or decisions taken under that authority.
9. For the avoidance of doubt, any authorisations made by Chief Officers to officers in force immediately prior to the adoption of this Constitution shall continue in force and any action taken thereunder shall remain valid unless and until it is superseded by either further such delegation or authorisation, or any action taken pursuant to later delegation.
10. In the event of a Chief Officer post being vacant, or in the absence of a Chief Officer, those delegated powers may be exercised by the relevant Heads of Service so far as permitted by law.
11. Where this Constitution permits the exercise of delegated powers by Heads of Service, such exercise is subject to the same restrictions and requirements as are applicable to Chief Officers.
12. Where it is impracticable to obtain authorisation from the Council body with responsibility for the function and subject to the action being reported (for information) to the next convenient meeting of that body, to take urgent action within legal powers where this is necessary in the interests of the Council, in respect of matters otherwise reserved to the Executive or some other Council body.

Table 2

Delegations to the Chief Executive

1. To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.
2. To guide and, where appropriate, direct chief officers in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
3. (a) To carry out any executive function which is delegated to a particular chief officer in consultation with the relevant Cabinet Portfolio Member
(b) To carry out any executive function of a corporate nature in consultation where appropriate with the Leader and Deputy Leader.

The following matters are, in addition, delegated to the Assistant Chief Executive:

4. In consultation where appropriate with the relevant Cabinet Portfolio Member, to discharge executive functions in relation to:
 - Communications
 - Corporate Policy, Planning and Improvement
 - Community Engagement/Area Action Partnerships
 - Community Development
 - Emergency Planning and Civil Contingencies Unit
 - Equalities, Diversity and Cohesion
 - Performance Management and Research Information
 - Partnership Co-ordination and support for the County LSP.
5. To oversee the management of the Council's Overview and Scrutiny functions.
6. To authorise the expenditure of Neighbourhood and Area budgets approved by the Council in consultation with the relevant Area Action Partnership Board and the appropriate local member(s).
7. To designate suitably qualified officers as Authorising Officers for the purpose of granting authorisations to exercise the powers made available to the Council by the Regulation of Investigatory Powers Act, 2000.

Table 3

Delegations to the Corporate Director, Adults Wellbeing and Health

Executive Functions

Subject to the requirement set out below and in compliance with the provisions of Table 1 of these Delegations, the Corporate Director, Adults Wellbeing and Health, is authorised to discharge any function of the Executive in relation to:

- Social Services as far as those functions relate to adults.
- Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning:
 - The provision of mental health services including the acceptance and exercise of guardianships and receivership under the Mental Health Act 2007
 - The statutory complaints procedure.
- Setting rates for providers of all forms of social care and housing support in consultation with the Corporate Director, Resources.
- Functions exercisable on behalf of a NHS body so far as those functions relate to adults.
- Undertaking joint collaborative action as appropriate with the National Health Service for the planning and provision of jointly operated services within the County.
- Protection and promotion of the welfare of vulnerable adults including vulnerable young people moving into adulthood.
- Meeting the requirements as set down by the General Social Care Council, the General Teaching Council and the Independent Safeguarding Authority in relation to the employment, registration and training of all relevant staff.
- Welfare rights advisory service.
- Gypsies and travellers.

- Public libraries, museums, art galleries, theatres, arts development, heritage facilities, the county record office and the county archives with the exception of major changes in the pattern of the provision of public libraries, museums, art galleries, theatres, arts development, heritage facilities, the county record office and the county archives including permanent closure of these facilities.
- Community Safety.
- Adult learning services.
- Vocational training and allied services for persons over compulsory school age and promotion of arrangements to assist persons to obtain employment and employers to obtain employees.
- In consultation with the Corporate Director, Children and Young People's Services to coordinate the transition of service provision for children who will require services into adulthood.

In carrying out these delegated functions, the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

Specific Delegations

1. In consultation with the Head of Legal and Democratic Services to take enforcement action under bye-laws relating to arts, libraries and museums.
2. To coordinate the Council's response to Section 17 of the Crime and Disorder Act 1998 and ensure the crime and disorder implications of the Council's decisions are properly considered.
3. To provide advice on community safety issues to all council services and to provide support and advice to statutory partnerships in community safety/crime and disorder.
4. To carry out welfare assessments and in consultation with the Corporate Director of Resources give direction under Section 77 of the Criminal Justice & Public Order Act 1996.
5. In consultation with the Head of Legal and Democratic Services of Neighbourhood Services, take enforcement action under Section 78 of the Criminal Justice and Public Order Act 1996, Section 1 of the Crime and Disorder Act 1998 and Section 85 of the Anti Social Behaviour Act 2003.
6. To meet the requirements as set down by regulatory bodies in relation to the employment, registration and training of all registerable staff.

Table 4

Delegations to the Corporate Director, Children and Young People's Services

Executive Functions

Subject to the requirement set out below and in compliance with the provisions of Table 1 above, the Corporate Director, Children and Young People's Services, is authorised to discharge any function of the Executive in relation to:-

- The Council's role as Children's Services Authority
- Social Services so far as those functions relate to:
 - Children, or;
 - Children and young people leaving care
- Functions exercisable on behalf of a NHS body so far as it relates to children
- The Council's role as Local Education Authority and its role in commissioning 14-19 education as determined by the Education and Skills Act 2008 and any subsequent legislation relating to education and training for young people.
- Meeting the requirements as set down by the General Social Care Council, the General Teaching Council and the Independent Safeguarding Authority in relation to the employment, registration and training of all relevant staff
- The effective and lawful operation of a secure unit in accordance with the licence requirements set by the Commission for the Social Care Inspectorate
- The provision of assessment and treatment services for children and young people in accordance with the Mental Health Act 2007.
- To exercise the powers set out in Table 8 relating to the Building Schools for the Future programme.

In carrying out these delegated functions, the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

Specific and non-executive delegations

To license the employment of children under Part II of the Children and Young Person Act 1933 Bylaws made under that part, and Part II of the Children and Young Person Act 1963.

Table 5

Delegations to the Corporate Director, Regeneration and Economic Development

Executive Functions

Subject to the requirement set out below and in compliance with the provisions of Table 1 above, the Corporate Director, Regeneration and Economic Development is authorised to discharge any function of the Executive in relation to:-

- Spatial planning.
- Economic policy and programmes
- Regeneration
- Housing
- Transport strategy
- Highways and public rights of way
- Traffic Management, in consultation, where required with the Highways Committee, in relation to functions under the Road Traffic Regulation Act 1984
- Strategic tourism
- Conservation and archaeology
- Town twinning

In carrying out these delegated functions the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s)

Specific and non-executive delegations

1. To give consent on behalf of the Council to the County Durham Development Company Limited incurring expenditure of money provided by the Council.
2. To exercise all of the Council's functions relating to public right of way as set out in Part 1 of Section I of Schedule 1 to the 2000 Regulations except matters reserved to the Highways Committee.
3. To exercise the Council's powers under the Durham City Council Act 1985 in relation to the temporary closure of footpaths.
4. (a) To grant street-works licences under Section 50 of the New Roads and Streetworks Act 1991 (the 1991 Act)

(b) To issue fixed penalty notices under Section 95A of the 1991 Act
5. To cancel penalty charge notices in respect of parking contraventions under the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

6. Provision and operation of closed circuit television in accordance with the Criminal Justice and Public Order Act 1994 and the Private Security Industry Act 2001.

The following matters are, in addition, delegated to the Head of Planning Services:

7. Determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 or under any related principal or secondary legislation, except the following -
 - (a) those applications or notifications that any member of the Council requests be determined by the Planning Committee. (such must be made in writing to the Head of Planning Services specifying material planning grounds on which the request is made and received by the Head of Planning Services within 21 days of publication of application or notification on weekly list);
 - (b) those applications or notifications where a member of the Council or an officer of the Regeneration and Economic Development Service has an interest in the property or land which is the subject of the application or notification;
 - (c) those applications where there is a significant objection on material planning grounds from a Town or Parish Council and where it is proposed to approve the application or notification;
 - (d) major developments (but not including Reserved Matters) comprising -
 - (i) ten or more dwellings (detailed and outline applications);
 - (ii) industrial floorspace of 5000 m²; or
 - (iii) all other developments where the floor space is 1000 m² (gross) or more or the site area is 1 hectare or more;
 - (e) those applications for planning permission or notifications likely to have, in the opinion of the Head of Planning Services, a significant impact on the environment or are by their nature particularly controversial;
 - (f) those applications or notifications recommended for refusal which involve the creation of 10 or more full time or equivalent jobs;
 - (g) those applications or notifications where there is a significant departure from the Development Plan policy and which would be required to be the subject of a notification to the Secretary of State;

8. Authorise the service of notices, prosecutions and injunctions, and instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the enforcement of legislation relating to town and country planning.
9. Authorise the making of Orders pursuant to Sections 247-257 of the Town and Country Planning Act 1990 and to confirm such Orders where there are no objections;
10. Authorise the making, confirmation (and, if appropriate, the revocation) of Tree Preservation Orders (including emergency orders);
11. In connection with any proposed development under Schedule 2 of the Town and Country Planning (Environmental Impact and Assessment) (England & Wales) Regulations 1999, determine whether an Environmental Impact Assessment is required (screening) and the information required (scoping)
12. Authorise individual named officers to exercise powers of entry contained in the following:

Town and Country Planning Act 1990
Planning (Listed Buildings and Conservation Areas) Act 1990
Planning (Hazardous Substances) Act 1990
Building Act 1984
Fire Safety and Safety of Places of Sport Act 1987
Safety of Sport Grounds Act 1975
Local Government (Miscellaneous Provisions) Act 1982
Party Wall Act 1996
Planning & Compensation Act 2004 (so far as is relevant)

or such other Acts of Parliament as relate to the relevant statutory functions of the planning authority;

13. Act under and in respect of –
 - (a) Sections 16, 18 to 21, 23 to 25, 32, 35 and 36, Building Act 1984;
 - (b) Sections 71 to 73 and 77 to 83, Building Act 1984;
 - (c) Building Regulation 14 with regard to giving of notices and requiring the laying open, cutting into, and pulling down the building, works or fittings
 - (d) Sections 29-32, Local Government (Miscellaneous Provisions) Act 1982;
 - (e) Party Wall Act 1996;

14. Accept and reject notices, certificates and certificates of compliance from Approved Inspectors and Public Bodies under Sections 47 to 54, Building Act 1984 and to issue safety certificates in accordance with Part III, Fire Safety and Safety of Places of Sport Act 1987;
15. To authorise, sign and serve all notices and deal with all applications, licences, revocations and suspensions and take all necessary enforcement action on behalf of the Council in respect of its responsibilities for matters of building control.
16. To administer and determine complaints about high hedges under the Anti-Social Behaviour Act 2003.
17. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.

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Table 6

Delegations to the Corporate Director, Neighbourhood Services

Executive Functions

Subject to the requirement set out below and in compliance with the provisions of Table 1 above the Corporate Director, Neighbourhood Services is authorised to discharge any function of the Executive in relation to:-

- Highway maintenance
- Clean Neighbourhoods and Environment
- Open Spaces
- Leisure and Recreation
- Public Health and Pest Control
- Waste Management and Recycling
- Street Cleansing
- Parking Control
- Building and Technical Services
- Traffic Management, in consultation, where required, with the Highways Committee in relation to functions under the Road Traffic Regulation Act 1984.
- Community Safety
- The Waste Solution Programme as set out in Table 8
- Private Sector Housing Enforcement
- Animal Welfare/Infectious Disease Control
- Trading Standards and Consumer Protection
- Scientific Services
- Burial and Cremation

In carrying out these delegated functions the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s)

Specific and Non-Executive Delegations

1. To exercise all of the Council's functions including licensing, registration, making of orders, issue of notices and enforcement in respect of the following matters referred to in Schedule 1 to the 2000 Regulations:
 - (a) performances of hypnotism;
 - (b) premises for acupuncture, tattooing, ear piercing and electrolysis;
 - (c) pleasure boats and pleasure vessels;

- (d) night cafes and take-away food shops;
- (e) sale of non-medicinal poisons;
- (f) premises for the preparation of food including registration;
- (g) scrap yards;
- (h) pet shops and the breeding and boarding of dogs or other animals;
- (i) animal trainers, zoos and dangerous wild animals;
- (j) knackers' yards;
- (k) charitable collections;
- (l) operation of loudspeakers;
- (m) street works licences;
- (n) movement and sale of cattle and pigs;
- (o) the following provisions of the Highways Act 1980:
Sections 115E, 115F, 115K, 139, 115G, 142, 147, 169, 171, 172, 178, 179 and 180;
- (p) storage of celluloid;
- (q) meat, fish, dairy and egg product establishments and butchers' shops;
- (r) motor salvage operations;
- (s) health and safety at work;
- (t) smoke-free premises;
- (u) caravan and camping sites and moveable dwellings.

2. To exercise the Council's functions in relation to:

- (a) the control of pollution and the management of air quality;
- (b) statutory nuisances, as referred to in Schedule 2 to the 2000 Regulations;

- (c) contaminated land;
- (d) port health.

The matters set out in paragraphs 3 to 14 below are, in addition, delegated to the Head of Environment, Health and Consumer Protection:

3. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's licensing, approval, registration and enforcement functions, including the institution of legal proceedings under legislation set out in Appendix 1 to this Table and all associated secondary legislation as amended from time to time.
4. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within Appendix 1 to this Table to reflect new or modified statutory provisions.
5. Subject to Appendices 2, 3 and 4 to this Table to authorise, suspend, vary, transfer, extend or revoke permits, licences, certificates, registrations and approvals issued under the legislation set out in the Appendix 1 to this Table including all relevant statutory provisions.
6. To issue simple and conditional cautions to persons guilty of criminal offences under the legislation as referred to in paragraph 3 above and in accordance with PACE and the Home Office Guidance.
7. To authorise suitably qualified and competent staff within the Environment, Health and Consumer Protection Division and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the legislation referred to in paragraph 3 above.
8. To authorise another local authority to institute legal proceedings in respect of a contravention of the legislation set out in Appendix 1 to this Table where related contraventions are being investigated by that authority.
9. To grant authorisations in relation to illegal money lending and unfair trading practices.
10. Power to agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.
11. Power to appoint Proper Officers and alternate Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.
12. Power to appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.

13. To authorise Officers to institute and or defend on behalf of the Council any legal proceedings which the Council by itself, or by a duly empowered Committee, may decide to take. In this respect, nominated staff are hereby authorised to appear in Court in person, or to be represented by a duly appointed officer of the Council in accordance with Section 223 of the Local government Act 1972 or to be represented by a duly instructed solicitor.
14. To determine those applications and matters in relation to Licensing and Gambling as are referred to in Appendices 2, 3 and 4 to this Table.

The matters set out in paragraphs 15 to 18 below are, in addition, delegated to the Head of Direct Services:

15. To exercise, in consultation with the Head of Legal and Democratic Services the Council's enforcement functions, including the institution of legal proceedings, under legislation set out in Appendix 5 to this Table and all relevant statutory provisions, as amended from time to time.
16. To authorise suitably qualified and competent staff within the Direct Services Division and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the legislation referred to in Appendix 5 to this Table.
17. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within Appendix 5 to this Table to reflect new or modified statutory provisions.
18. To issue simple and conditional cautions to persons guilty of criminal offences under the legislation as referred to in Appendix 5 to this Table and in accordance with PACE and the Home Office Guidance.

Appendix 1 to Table 6

Administration of Justice Act 1970
Agriculture Act 1970
Agriculture (Miscellaneous Provisions) Act 1968
Agricultural Produce (Grading and Marking) Acts 1928 and 1931
Animal Boarding Act 1963
Animal Health Act 1981
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Breeding of Dogs Act 1971
Breeding of Dogs Act 1991
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Business Names Act 1985
Caravan Sites and Control of Development Act 1960
Caravan Sites Act 1968
Children and Young Persons (Protection from Tobacco) Acts 1933 and 1991
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Companies Act 1985
Consumer Credit Act 1974
Consumer Protection Act 1987
Control of Pollution (Amendment) Act 1989
Control of Pollution Act 1974
Copyright, Design and Patents Act 1988
Criminal Justice and Public Order Act 1994
Courts and Legal Services Act 1990
Dangerous Wild Animals Act 1976
Development of Tourism Act 1969
Education Reform Act 1988
Employment of Women, Young Persons and Children Act 1920
Energy Act 1976
Energy Conservation Act 1981
Enterprise Act 2002
Environmental Protection Act 1990
Environment Act 1995
Estate Agents Act 1979
European Communities Act 1972
Explosives Acts 1975 to 1976
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Food Hygiene (England) Regulations 2006
Food and Environment Protection Act 1985
Food Safety Act 1990
Gambling Act 2005
Hallmarking Act 1973
Health Act 2006
Health and Safety at Work etc. Act 1974
Housing Act 2004
Insurance Brokers (Registration) Act 1977
International Health Regulations 2005
Intoxicating Substances (Supply) Act 1985
Licensing Act 2003
Local Government Act 1972

Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Medicines Act 1968
Mock Auctions Act 1961
Motor Vehicle Salvage Operators Regulations 2002
National Assistance Act 1948
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Performing Animals (Regulation) Act 1925
Pesticides Act 1995
Pesticides (Fees and Enforcement) Act 1989
Pet Animals Act 1951 and Amendment Act 1983
Poisons Act 1972
Pollution Prevention and Control Act 1999
Prevention of Damage of Pests Act 1949
Prices Acts 1974 and 1975
Property Misdescriptions Act 1991
Protection of Animals Act 1911 (as amended)
Public Health Act 1936
Public Health Act 1961
Public Health (Control of Diseases) Act 1984
Public Health (Ships) Regulations 1979
Public Health (Ships)(Amendment)(England) Regulations 2007
Riding Establishments Acts 1964 and 1970
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Acts 1988 and 1991
Road Traffic Offenders Act 1988
Road Traffic (Consequential Provisions) Act 1988
Scrap Metal Dealers Act 1964
Shops (early Closing Day) Act 1995
Slaughter of Poultry Act 1967
Slaughterhouse Act 1974
Solicitors Act 1974
Sunday Trading Act 1994
Telecommunications Act 1984
Theft Act 1968
Timeshare Act 1992
Tobacco Advertising and Promotions Act 2002
Town and Country Planning At 1990
Trade Descriptions Acts 1968 and 1972
Trade Marks Act 1994
Trading Representations (Disabled Persons) Act 1958 and 1972
Trading Stamps Act 1964
Traffic Management Act 2004
Unsolicited Goods and Services Acts 1971 and 1975
Video Recordings Acts 1984 and 1993
Water Industries Act 1991
Weights and Measures Act 1985
Young Persons (Employment) Acts 1938 and 1964

Appendix 2 to Table 6 - Delegation of Licensing Act 2003 responsibilities

Matter to be dealt with	(1) Full Committee	(2) Sub-Committee	(3) Officers
Application for Personal Licence		If a Police objection is made	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated Premises Supervisor		If a Police objection is made	All other cases
Request to be removed as designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a Police objection is made	All other cases
Application for interim authorities		If a Police objection is made	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious, etc.			All cases, in consultation with the Chair or Vice Chair of the Statutory Licensing Committee
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police representation to a temporary event notice		All cases	

Appendix 3 to Table 6 - GAMBLING ACT 2005 – Scheme of Delegations

Gambling Act 2005	Functions	Delegation
Section 163	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application for Premises Licence where no relevant representations received	Licensing Sub-Committee Officers
Section 162	Attachment of condition to Premises Licence or exclusion of default condition	Licensing Sub-Committee
Section 162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application	Officers in consultation with Chairman or Vice-Chairman at the Licensing Committee
Section 187	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application to vary Premises Licence in respect of which no representation received	Licensing Sub-Committee Officers
Section 188	Determination of application for transfer of Premises Licence in respect of which representations have been made (not withdrawn) Determination of application for transfer of Premises Licence where no representations received	Licensing Sub-Committee Officers
Section 193	Revocation of Premises Licence for failure to pay annual fee	Officers
Section 194	Determination that a Premises Licence has lapsed	Officers
Section 195	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn) Reinstatement of lapsed Premises Licence where no representation is received	Licensing Sub-Committee Officers
Section 198	Rejection of application for review of Premises Licence on various grounds	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 200	Initiation of review of Premises Licence	Officers
Section 201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 202	Determination of action following review of Premises Licence	Licensing Sub-Committee

Gambling Act 2005	Functions	Delegation
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) Determination of application for provisional statement in respect of which no representations received	Licensing Sub-Committee Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	Issue of counter notice in response to Temporary Use Notice	Licensing Sub-Committee
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Schedule 10 Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Head of Administration (or in his absence the Central Services Manager) (Refusal to be exercised only in consultation with Chairman or Vice-Chairman of the Licensing Committee)
Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Schedule 11 Paragraph 44 Paragraph 48	Registration of society for small society lottery Refusal of application for registration of society for small society lottery	Officers Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers

Gambling Act 2005	Functions	Delegation
<p>Schedule 12 Paragraphs 5 and 10 and 24</p> <p>Paragraph 15</p> <p>Paragraph 21</p> <p>Paragraph 22</p>	<p>Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn)</p> <p>Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit where no representations received</p> <p>Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)</p> <p>Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations received</p> <p>Cancellation of Club Gaming Permit and Club Registration Permit</p> <p>Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee</p>	<p>Licensing Sub-Committee</p> <p>Officers</p> <p>Licensing Sub-Committee</p> <p>Officers</p> <p>Licensing Sub-Committee</p> <p>Officers</p>
<p>Schedule 13 Paragraphs 4, 15 and 19</p> <p>Paragraph 16</p>	<p>Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit</p> <p>Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)</p>	<p>Officers (Refusal and limitation on number of machines only in consultation with Chairman or Vice-Chairman of the Licensing Committee)</p> <p>Licensing Sub-Committee</p>
<p>Paragraph 17</p>	<p>Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received</p> <p>Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee</p>	<p>Officers</p> <p>Officers</p>
<p>Schedule 14 Paragraphs 9 and 18</p> <p>Paragraph 15</p>	<p>Determination of application for Prize Gaming Permit and application for renewal of Permit</p> <p>Determination that Prize Gaming Permit has lapsed</p>	<p>Officers (Refusal only in consultation with Chairman or Vice-Chairman of Licensing Committee)</p> <p>Officers</p>

Appendix 4 to Table 6 - Hackney Carriage and Private Hire Licensing.

Matters to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Drivers Licence where there are no concerns over their fitness and propriety			X
Application for a Drivers Licence where doubts on fitness and propriety are minor traffic offences			X
Application for a Drivers Licence where there is a lapse of time or circumstances for convictions fall outside of the Policy		X	
Application for a Drivers Licence where there is any other doubt on suitability		X	
Revocation of Driver or Operator Licence		X	
Revocation of Vehicle Licence			X
Suspension of Licences			X

Appendix 5 to Table 6

Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Burial Act 1853
Burial Act 1857
Civic Amenities Act 1967
Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
Control of Pollution (Amendment) Act 1989
Criminal Justice and Public Order Act 1994
Criminal Damage Act 1971
Crime and Disorder Act 1998
Dangerous Dogs Act 1991
Directives and Regulations Dogs (Fouling of Land) Act 1996
Dogs (Fouling of Land) Act 1996
Environment Act 1995
Environmental Protection Act 1990 (Part II, III and IV and all associated EU Directives and Regulations) (Part VIII)
Highways Act 1980
Household Waste and Recycling Act 2003
Local Government Act 1972
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Local Authorities Cemeteries Order 1977
New Roads and Street Works Act 1991
Open Spaces Act 1906
Parochial Registers and Records Measure 1978
Police Reform Act 2002
Public Health Act 1936
Public Health Act 1961
Refuse Disposal (Amenity) Act 1978
Registration of Burials Act 1864
Road Traffic Regulation Act 1984
Town and Country Planning Act 1990 (Section 215)
Town Police Clauses Act 1847
Waste Minimisation Act 1998

Table 7

Delegations to the Corporate Director, Resources

Executive Functions

Subject to the requirement set out below and in compliance with the provisions of Table 1 above the Corporate Director, Resources is authorised to discharge any function of the Executive in relation to:-

- The proper administration of the Council's financial affairs
- The provision of Legal and Democratic Services to the Council
- Human Resources and Organisational Development Services
- Management of the Council's Land and Property Assets
- ICT Services
- Coroners
- Land charges
- The Registration of Births, Deaths and Marriages

In carrying out these delegated functions the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s)

Specific and Non-Executive Delegations

Finance and Corporate Services

1. The collection of revenue, council tax and national non-domestic rates.
2. The administration of benefits.
3. To exercise the budgetary control functions referred to the Corporate Director under the Council's Financial Procedure Rules.
4. To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
5. To make appropriate banking arrangements on behalf of the Council.
6. To insure against risks where he considers this appropriate.
7. The operation of the Council's accounting systems and payroll.
8. In consultation with the Leader and Deputy Leader, to authorise the release of funds from contingencies as set out in the Revenue Budget.

9. To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
 - (a) Section 115(2) (Accountability of Officers);
 - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)
10. In relation to the Pension Fund:
 - (a) To exercise those discretions under the Local Government Pension Scheme Regulations as appear from time to time in Pension Fund Statements of Policy;
 - (b) To authorise in cases of urgency the taking of any action by a Manager of the Pension Fund which is necessary in order to protect the interests of the Fund.
11. To administer the Council's car loan and leasing schemes.
12. To write off debts.
13. To deal with the payment of Coroner's remuneration and expenses.
14. To ensure appropriate financial and risk management arrangements across the Council.
15. To approve premises for the solemnization of marriages and the registration of civil partnerships.
16. To appoint Coroners.
17. To authorise expenditure within the approved budget for civic hospitality.
18. The Corporate Director, Resources also has the powers set out in Table 8 relating to the Building Schools for the Future Programme and the Waste Solution Programme.

Human Resources and Organisational Development

19. To implement the Council's decisions in relation to Single Status and Job Evaluation.
20. To approve the regrading of posts up to and including Head of Service level.
21. To offer alternative employment to any permanent employee who becomes surplus to the requirements of the Service or whose employment is at risk through reasons of ill health or other incapacity.
22. To determine applications for the extension of sick pay.

23. To approve applications for leave of absence in cases not covered by the Council's policies.
24. To agree variations to the Council's scheme for payments towards removal expenses, lodging allowances and legal fees for new employees.
25. To approve overtime payments for employees above spinal column point 28.
26. To authorise redundancy payments to school staff after consultation with the Head of Corporate Finance.
27. To coordinate the Member Training and Development Programme including:
 - (a) management of the approved Member Training and Development Budget and
 - (b) authorisation of Member attendance at conferences, seminars and other training and development events in consultation with the Leader and the Head of Legal and Democratic Services.

Asset Management

28. In consultation with the Local Members and the relevant Cabinet Portfolio Member, to sell or lease any property which is surplus to the requirements of the Service for which it is held and where after enquiries no other Service has expressed an interest in the property.
29. To settle the terms of the purchase or lease of property the acquisition of which has been approved in principle by the Council.
30. To negotiate the acquisition of wayleaves, licences etc. required to facilitate the discharge of the Council's functions.
31. To deal with applications for easements, rights of way, wayleaves, licences, covenants and consents affecting council land and property not materially affecting the use to which it is or might be put.
32. In consultation with the appropriate Service representative to grant leases for up to 21 years on any council owned property, whether or not it has been declared surplus.
33. In respect of leases, to carry out rent reviews and to grant renewals, variations, assignments, sub-lettings, surrenders and other landlords' consents.

34. To agree the appropriation of land from one use to another where this is necessary to facilitate schemes to be carried out by or on behalf of the Council.
35. To settle compensation claims not exceeding £50,000 either under the provisions of Part 1 of the Land Compensation Act 1973 or as a result of the Council taking entry to property for borehole samples, surveys or other site investigations.
36. To negotiate and agree the rating assessment and valuation of all council owned property, in consultation with the Head of Corporate Finance.
37. To require information as to interests in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

Legal and Democratic Services

The following matters are delegated to the Head of Legal and Democratic Services:

1. To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made thereunder other than those Proper Officer functions delegated to the Corporate Director, Resources in connection with the administration of the Council's financial affairs. This delegation shall not derogate from the general delegation under Table 1 paragraph 8.
2.
 - (a) To act as Returning Officer for County Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).
 - (b) To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.
3. To carry out the Proper Officer functions relating to freemen under the Durham City Council Act, 1985.
4. To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.
5. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
6.
 - (a) To prepare all contracts for the sale or purchase of Council Land and property and all leases, tenancy agreements or other agreements affecting Council land or property including easements or any interest in land.

- (b) To settle legal documents other than those mentioned above relating to or affecting the functions of the Council.
 - (c) To sign the documents referred to in sub-paragraph (a) above and all other formal documents intended to give effect to decisions of a council body.
- 7. To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.
- 8.
 - (a) Generally, to institute, defend and conduct any legal proceedings relating to the Council's functions or affecting the property, rights or interests of the Council.
 - (b) To authorise named officers to appear on behalf of the Council in legal proceedings in the Magistrates' Court pursuant to Section 223 Local Government Act 1972.
- 9. To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.
- 10. To settle claims from staff for damage to personal property in accordance with the Council's policies.
- 11. In consultation with the Chairman of the Standards Committee, to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000.
- 12. To:
 - (a) appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and
 - (b) give consent to written resolutions of any company of which the Council is a shareholder.
- 13. In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the subject of report to the Council or the Executive, in consultation with the respective political group leaders.
- 14. To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.
- 15. To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.

16. To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).
17. To make arrangements pursuant to Section 95(2) of the Schools Standards and Framework Act 1998 (Children to whom Section 87 applies; Appeals by Governing Bodies).
18. In consultation with the Corporate Director, Neighbourhood Services and the Chairman and Vice-Chairman of the Statutory Licensing Committee or General Licensing and Registration Committee as appropriate, to determine that a particular application shall be considered by the Statutory Licensing Committee or the General Licensing and Registration Committee rather than a Sub-Committee.

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Table 8

Specific Delegations for Major Programmes

Building Schools for the Future

The Corporate Director, Children and Young People's Services in consultation with the Corporate Director, Resources, the Leader or Deputy Leader and/or Lead Cabinet Member for Children's Services is delegated the additional functions and powers listed below:

1. To appoint all required consultants and other service providers in accordance with any applicable legislation without financial restriction.
2. To agree and approve the contents of the documentation prepared to procure the Local Education Partnership.
3. To undertake the process for procurement of the Local Education Partner up to preferred bidder stage, including approval of bidder long and short lists.
4. To negotiate and agree terms for the Local Education Partnership, the Strategic Partnering Agreements, Project Agreements and all other project contracts and documentation.
5. To approve the buying, selling, or leasing of any land and the making of any agreement or arrangement (of whatever value) regarding land to facilitate the BSF programme.
6. To agree terms for and commission of any works (of whatever value) to facilitate the BSF program.
7. To approve any relevant plans and specifications.
8. To authorise action as recommended by any studies, reports or analyses commissioned or received from other sources in relation to the BSF program.
9. To exercise any action arising from the Project Board acting under its Terms of Reference generally where such actions not covered by a specific delegation.

The Corporate Director, Resources is delegated the functions and powers listed below:

1. To approve changes to allocations within the overall BSF Budget
2. To approve detailed BSF Budgets
3. To approve changes to detailed BSF Budgets

These delegations are without prejudice to the general scheme of delegations contained in the Constitution which may be used in addition to those listed above.

Waste Solution Project

The Corporate Director, Neighbourhood Services in consultation with the Corporate Director, Resources and the Leader or Deputy Leader and/or Lead Cabinet Member for Business, Planning and Waste Management is delegated the functions and powers listed below:

1. To appoint all required consultants and other service providers in accordance with legislation without financial restriction.
2. To undertake the process for procurement of new long term waste management arrangements for the County Council, including approval of all procurement and contract documentation up to preferred bidder stage, including approval of bidder long and short lists.
3. To authorise action as recommended by any reports or analysis commissioned or received from other sources in relation to the Waste Solution Project.
4. To approve the buying, selling or leasing of any land (of whatever value) and the making of any agreement regarding land to facilitate the Waste Solution Project.
5. To agree terms for the commission of any works (of whatever value) to facilitate the Waste Solution Project.
6. To approve any relevant plans and specifications.
7. To exercise any action arising from the Waste Solution Project Board acting generally under its terms of reference where such action is not covered by a specific delegation.

The Corporate Director, Resources is delegated the functions and powers listed below.

1. To approve changes to allocations within the overall Waste Solution Project budget.
2. To approve detailed Waste Solution Project budgets.
3. To approve changes to detailed Waste Solution Project budgets.

These delegations are without prejudice to the general scheme of delegations contained in the Constitution which may be used in addition to those listed above.

D JOINT ARRANGEMENTS

The Joint Committee for the North of England Open-Air Museum

1. The Council is party to an Agreement dated 11 November 1999 made with the following bodies:

Darlington Borough Council
Gateshead Borough Council
Hartlepool Borough Council
Middlesbrough Borough Council
Newcastle upon Tyne City Council
North Tyneside Borough Council
Northumberland County Council
Redcar and Cleveland Borough Council
South Tyneside Borough Council
Stockton-on-Tees Borough Council
Sunderland City Council

2. The purpose of the Agreement is to delegate to the Joint Committee formed in pursuance of the Agreement the functions of the constituent authorities under the Public Libraries and Museums Act 1964 in relation to the North of England Open-Air Museum at Beamish, Stanley, County Durham
3. Details of the Joint Committee's Constitution, Rules of Procedure Financial Regulations Scheme of Delegation and Members Code of Conduct can be obtained from the Secretary to the Joint Committee at County Hall, Durham
4. The call-in arrangements applying to executive decisions of the Joint Committee will be those operated by the constituent authority wishing to exercise the right of call-in

The Joint Committee for the appointment of Police Authority Members

1. The Joint Committee is constituted in accordance with the provisions of Schedule 2 to the Police Act, 1996.
2. The Joint Committee comprises 5 members appointed by the Council and 1 member appointed by Darlington Borough Council.
3. The purpose of the Joint Committee is to make appointments to Durham Police Authority from among members of the Council and Darlington Borough Council.
4. The call-in arrangements applying to the executive decisions of the Joint Committee will be those operated by the council wishing to exercise the right of call-in.

The Mountsett Crematorium Joint Committee

1. The Joint Committee operates under an Agreement dated 8 September 1983 (which was supplemental to earlier Agreements) made between Derwentside District Council and Gateshead Borough Council.
2. The purpose of the Agreements is to provide and maintain a crematorium to serve the areas of the respective councils, known as the Joint Crematorium District.
3. On 1 April 2009 the Council assumed the rights and liabilities of Derwentside District Council under the Agreements referred to above.

The Central Durham Crematorium Joint Committee

1. The Joint Committee operates under an Agreement dated 3 May 1983 made between Durham City Council and Spennymoor Town Council.
2. The purpose of the Agreement is to provide and maintain a crematorium to serve the areas of the respective councils.
3. On 1 April 2009 the Council assumed the rights of liabilities of Durham City Council under the Agreement referred to above.

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Part 4

Rules of Procedure

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1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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

The annual meeting will:

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) elect the Vice-Chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or the Head of Paid Service;
- (vi) elect the Leader in the year of an ordinary election of councillors;
- (vii) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (viii) agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (ix) approve a programme of ordinary meetings of the Council for the year; and
- (x) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which committees and sub-committees to establish for the municipal year;

- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- (v) appoint the Chairmen and Vice-Chairmen of Committees.

2. **ORDINARY MEETINGS**

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

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chairman, Leader, members of the cabinet or the Head of Paid Service;
- (v) deal with any business from the last Council meeting;
- (vi) receive reports from the Executive and the Council's committees and receive questions and answers on any of those reports;
- (vii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (viii) consider motions;
- (ix) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Management Board; and
- (x) deal with questions from Members in accordance with Rule 10;

- (xi) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the Council's functions.
- (xii) receive petitions from the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the Council's functions.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

The Head of Legal and Democratic Services may call Council meetings in addition to ordinary meetings and those listed below may request the Head of Legal and Democratic Services to call additional Council meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) any 5 Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc. except that the Chairman may at his absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Head of Legal and Democratic Services and notified in the summons.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Head of Legal and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least 5 clear days before a meeting, the Head of Legal and Democratic Services will send a summons signed by him to every member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIR OF MEETING

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

7. QUORUM

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. QUESTIONS BY THE PUBLIC

8.1 General

Members of the public may ask questions of Members of the Executive at ordinary meetings of the Council.

8.2 Order of questions

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

8.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

8.4 Number of questions

At any one meeting no person may submit more than 3 questions and no more than 3 such questions may be asked on behalf of one organisation.

8.5 Scope of questions

The Head of Legal and Democratic Services may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the County;
- is defamatory, frivolous or offensive;

- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information.

8.6 Record of questions

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

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

8.7 Asking the question at the meeting

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

8.8 Written answers

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

8.9 Reference of question to the Executive or a committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

9. PETITIONS FROM THE PUBLIC

9.1 Notice of Petition

If a citizen wishes to present a petition to the Council Meeting notice must be given to the Head of Legal and Democratic Services no later than mid-day 3 working days before the meeting.

9.2 **Number of Petitions**

At any one meeting no person or organisation may present more than one petition.

9.3 **Scope of Petitions**

The Head of Legal and Democratic Services may reject a petition if it:

- is not about a matter for which the Council has a responsibility or which affects the County;
- is defamatory, frivolous or offensive;
- is substantially the same as a petition which has been put at a meeting of the Council in the past 6 months.

9.4 **Presentation of Petitions**

Only one person may speak to present a petition which will be a short statement to explain the subject matter but there will be no debate on the petition.

9.5 **Next Steps**

The Council will establish a protocol for managing and responding to petitions.

10. **QUESTIONS BY MEMBERS**

10.1 **On reports of the Executive or committees**

A member of the Council may ask the Leader or the chairman of a committee any question without notice upon an item of the report of the Executive or a committee when that item is being received or under consideration by the Council.

10.2 **Questions on notice at full Council**

Subject to Rule 10.4, a Member of the Council may ask:

- (a) the Chairman, a member of the Executive or the chairman of any committee or sub-committee, a question on any matter in relation to which the Council has powers or duties or which affects the County, and
- (b) the nominated member of the Durham Police Authority, or the Chairman of the County Durham and Darlington Fire and Rescue Authority, a question on the business of the relevant Authority.

10.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 10.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

10.4 Notice of questions

A member may only ask a question under Rule 10.2 or 10.3 if either:

- (a) they have given notice of the question in writing or by electronic mail no later than midday 3 working days before the day of the meeting to the Head of Legal and Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the Chairman or member to whom the question is to be put and the content of the question is given to the Head of Legal and Democratic Services by 9.00 a.m. on the day of the meeting.

10.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

10.6 Supplementary question

A Member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

11. MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Head of Legal and Democratic Services not later than 5.00 p.m. on the seventh working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

11.2 Motion set out in agenda

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

11.3 Scope

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

11.4 Motion to remove the Leader

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least 2 political groups.
- (b) In order for such a motion to be carried it must have the support of at least two-thirds of those members voting and present in the room at the time the question was put.
- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;

- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the Executive's proposals for the Council's budget and policy framework;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

13. **RULES OF DEBATE**

13.1 **No speeches until motion seconded**

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

13.2 **Right to require motion in writing**

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

13.3 **Secunder's speech**

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

13.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chairman.

13.5 **When a Member may speak again**

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

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

13.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.

- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.7 **Alteration of motion**

- (a) A member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

13.8 **Withdrawal of motion**

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

13.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his amendment.

13.10 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

13.11 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12 Point of order

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

13.13 Personal explanation

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

14. STATE OF THE COUNTY DEBATE

14.1 Calling of debate

The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chairman.

14.2 Form of debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the County debate.

14.3 Chairing of debate

The debate will be Chaired by the Chairman.

14.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and

- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

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

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. VOTING

16.1 Majority

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

16.2 Chairman's casting vote

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

16.3 Method of Voting

Unless a recorded vote is demanded under Rule 16.4 the Chairman will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

16.4 Recorded vote

If ten members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

16.5 Right to require individual vote to be recorded

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

16.6 Voting on appointments

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

17. MINUTES

17.1 Signing the minutes

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

17.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

17.3 Form of minutes

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

18. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

19. **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. **MEMBERS' CONDUCT**

20.1 **Speaking at meetings**

When a member speaks at full Council he must address the meeting through the Chairman. If more than one member signifies their intention to speak, the Chairman will ask one to speak. Other members must remain silent whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

20.2 **Chairman speaking**

When the Chairman speaks during a debate, any member speaking at the time must stop.

20.3 **Member not to be heard further**

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

20.4 **Member to leave the meeting**

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

20.5 **General disturbance**

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

21. **DISTURBANCE BY PUBLIC**

21.1 **Removal of member of the public**

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

21.2 Clearance of part of meeting room

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

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All of these Council Rules of Procedure except Rule 11.4(c), 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting. Rule 11.4(c) can only be suspended by motion on notice and the motion must have the support of at least two thirds of those members present and voting.

22.2 Amendment

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

23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive. Only Rules 4-7, 10-13, 15-23 (but not Rule 20.1) apply to meetings of committees and sub-committees. Rule 7 does not apply to meetings of the Statutory Licensing Sub-Committees or the Area Licensing Sub-Committees or the Appeals Sub-Committees for which the quorum is as specified in Part 3A of this Constitution.

24. APPOINTMENT OF SUBSTITUTE MEMBERS ON COUNCIL BODIES

- 24.1 The substitution rules will not apply to meetings of the Executive, the Standards Committee or the Audit Committee.
- 24.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.
- 24.3 The Proper Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 24.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.

24.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

24.6 Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are designated substitute.
- (ii) where the ordinary Member will be absent for the whole of the meeting;
- (iii) where the ordinary Member has notified the Head of Legal and Democratic Services or the Democratic Services Manager of the intended substitution at least one hour before the start of the relevant meeting; and
- (iv) provided, in the case of area committees, that the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the County.

DRAFT 05.03.09

Access to Information Procedure Rules

1. Scope

Subject to paragraph 1.1 below, these rules apply to all meetings of the Council, the Executive, the Overview and Scrutiny Management Board and Scrutiny Committees, the Standards Committee and Regulatory Committees (together called meetings).

- 1.1 Where an Assessment Sub-Committee or a Review Sub-Committee of the Standards Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council's Code of Conduct for Members, the provisions set out in the Standards Committee's Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public

2. Additional Rights to Information

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

3. Rights to attend meetings

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

4. Notices of meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall, Durham [the designated office].

5. Access to Agenda and Reports before the meeting

- (a) The Members of the Overview and Scrutiny Management Board and Scrutiny Committees shall be provided with full copies of the agenda and reports presented to Cabinet including those containing exempt and/or confidential information.
- (b) The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Legal and Democratic Services shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

6. Supply of copies

The Council will supply copies of:

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

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

7. Access to Minutes etc. after the meeting

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 the Executive] excluding any part of the minutes of 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 open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of background papers

The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in his 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).

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 Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at County Hall, Durham.

10. Exclusion of Access by the Public to Meetings

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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 Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any qualification)

[NOTE Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

Category	Qualification	Interpretation
1. Information relating to any individual	The exemption applies only if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (see note on public interest at the end of the table).	
2. Information which is likely to reveal the identity of an individual.	The Public Interest Test Qualification applies, as in 1 above.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The Public Interest Test Qualification applies, as in 1 above.</p> <p>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986 ["registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).]; or (f) the Charities Act 1993. 	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.

Category	Qualification	Interpretation
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"labour relations matter" means—</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>"employee" means a person employed under a contract of service;</p> <p>"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;</p>

Category	Qualification	Interpretation
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	The Public Interest Test Qualification applies, as in 1 above.	
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; or (b) to make an order or direction under any enactment.	The Public Interest Test Qualification applies, as in 1 above.	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies, as in 1 above.	
Exempt Information relating to the Standards Committee ONLY		
7A. Information which is the subject to any obligation of confidentiality	The Public Interest Test Qualification applies, as in 1 above.	
7B. Information which relates in any way to matters concerning national security.	The Public Interest Test Qualification applies, as in 1 above.	
7C. Information presented to the Standards Committee or a sub-committee of the Standards Committee set up to consider any matter under regulation 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.	The Public Interest Test Qualification applies, as in 1 above.	

NOTE -The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless *“in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information”*.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

11. Exclusion of Access by the Public to Reports

If the Head of Legal and Democratic Services thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

12. Application of Rules to the Executive

Rules 13 – 24 apply to the Executive and its Committees (if any). If the Executive or its Committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

If the Executive or its Committees meet to discuss a key decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12.03 of this Constitution. This requirement does not include meetings whose sole purpose is for Officers to brief Members.

13. Procedure before taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. The Forward Plan

14.1 Period of Forward Plan

Forward Plans will be prepared by the Leader of the Council to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working day of the second month covered in the preceding Plan.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Executive, any Committee of the Executive, individual Members of the Executive, or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual Member, his name and title, if any and where the decision taker is a body, its name and details of Membership;

- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered. The Head of Legal and Democratic Services will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (h) that key decisions are to be taken on behalf of the Council;
- (i) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (j) that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- (k) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (l) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the Plan;
- (m) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (n) that other documents may be submitted to decision takers;
- (o) the procedure for requesting details of documents (if any) as they become available; and

- (p) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

15. **General Exception**

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Head of Legal and Democratic Services has informed the Chairman of the Overview and Scrutiny Management Board, or in his absence the Vice-Chairman of the Board in writing, by notice, of the matter about which the decision is to be made;
- (c) the Head of Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 3 clear days have elapsed since the Head of Legal and Democratic Services complied with (b) and (c).

16. **Special Urgency**

If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the Leader of the Council obtains the agreement of the Chairman of the Overview and Scrutiny Management Board that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Management Board, or if the Chairman of the Overview and Scrutiny Management Board is unable to act, then the agreement of the Chairman of the Council, or in his absence the Vice Chairman of the Council will suffice.

17. **Report to Council**

17.1 **When the Overview and Scrutiny Management Board can require a report**

If the Overview and Scrutiny Management Board thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or

- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chairman of the Overview and Scrutiny Management Board, or the Chairman/Vice Chairman of the Council under Rule 16;

the Board may require the Executive to submit a report to the Council within such reasonable time as the Board specifies. The power to require a report rests with the Board, but is also delegated to the Head of Legal and Democratic Services, who shall require such a report on behalf of the Board when so requested by the Chairman of the Overview and Scrutiny Management Board. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Board.

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual member or body making the decision, and if the Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader of the Council will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. Record of Decisions

After any meeting of the Executive or any of its Committees, whether held in public or private, the Head of Legal and Democratic Services or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. Key Decisions by Individual Members of the Executive

19.1 Reports intended to be taken into account

Where an individual Member of the Executive receives a report which he intends to take into account in making any key decision, then he will not make the decision until at least 5 clear days after receipt of that report.

19.2 Provision of copies of reports to Overview and Scrutiny Management Board

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview and Scrutiny Management Board as soon as reasonably practicable, and make it publicly available at the same time.

19.3 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive, he will prepare, or instruct the Head of Legal and Democratic Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information.

20. Overview and Scrutiny Management Board and Scrutiny Committees - Access to Documents

20.1 Rights to copies

Subject to Rule 20.2 below, the Overview and Scrutiny Management Board and Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Executive or any of its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Executive or its Committees, or
- (b) any decision taken by an individual Member of the Executive.

20.2 Limit on rights

Neither the Overview and Scrutiny Management Board nor the Scrutiny Committees will be entitled to:

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

21. Additional Rights of Access for Members

21.1 Material relating to key decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any key decision unless it contains exempt information falling within paragraphs 1, 2 and 4 to 7C of the categories of exempt information.

21.2 Nature of rights

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

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Budget and Policy Framework Procedure Rules

1. The framework for executive decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

2. Process for developing the framework

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

- (a) The Executive will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of the initial proposals. The Chairman of the Overview and Scrutiny Management Board will also be notified.
- (b) At the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to the consultation. If the Overview and Scrutiny Management Board wishes to respond to the Executive in that consultation process then it may do so. As the Overview and Scrutiny Management Board has responsibility for fixing its own work programme, it is open to the Overview and Scrutiny Management Board to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from the Overview and Scrutiny Management Board into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (c) Once the Executive has approved the firm proposals, the Head of Legal and Democratic Services will refer them at the earliest opportunity to the Council.
- (d) Where the Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (e) below.
- (e) Before the Council
 - (i) amends the draft plan or strategy;

(ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

(iii) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

(f) Where the Council gives instructions in accordance with paragraph (e) above it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may -

(i) submit a revision of the draft plan or strategy as amended by the Executive (the “revised draft plan or strategy”), with the Executive’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or

(ii) inform the Council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.

(g) When the period specified by the Council, referred to in paragraph (f) above has expired, the Council must, when -

(i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

(ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

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

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

(h) Subject to paragraph (l) below where, before 8 February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year -

- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (ii) estimates of other amounts to be used for the purposes of such a calculation;
- (iii) estimates of such a calculation; or
- (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph (i) below.

- (i) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (h)(i) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Executive's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (j) Where the Council gives instructions in accordance with paragraph (i) above it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may -
 - (i) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
 - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- (k) When the period specified by the Council referred to in paragraph (j) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (h)(i) above, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Executive's reasons for those amendments;
- (iii) any disagreement that the Executive has with any of the Council's objections; and
- (iv) the Executive's reasons for that disagreement,

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

- (l) Paragraphs (h) to (k) above shall not apply in relation to -
 - (i) calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
 - (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.
- (m) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

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

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, committees of the Executive, individual members of the Executive or any officers or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- (b) If the Executive, committees of the executive, individual members of the Executive or any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget.

If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

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

- (a) The Executive, a committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) if the Chairman of the Overview and Scrutiny Management Board 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 Chairman of the Overview and Scrutiny Management Board'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 Chairman of the Overview and Scrutiny Management Board the consent of the Chairman of the Council and in the absence of both the Vice-Chairman of the Council will be sufficient.

- (b) 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.

5. **Virement**

Steps taken by the Executive, a committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging executive functions to implement Council policy shall not exceed the budgets allocated to each budget head in the Council's published budget. However, such bodies or individuals shall be entitled to vire across budget heads provided that the aggregate virements in any one financial year do not exceed 15% of the Council's total budget for that year. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council. In addition, chief officers must observe the limits contained in the Council's Financial Procedure Rules in relation to virement between budget heads controlled by them. All allocations from County Council contingencies, with the exception of pay awards and decisions taken pursuant to the Corporate Director, Resources delegated powers in relation to "specified contingencies", will require the approval of the Executive.

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

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Executive, a committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging executive 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 those changes:

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

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

- (a) Where the Overview and Scrutiny Management Board is of the opinion 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, then it shall seek advice from the monitoring officer and/or chief finance officer.
- (b) In respect of functions which are the responsibility of the Executive, the monitoring officer's report and/or chief finance officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the monitoring officer's or chief finance officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the Overview and Scrutiny Management Board if the monitoring officer or the chief finance officer conclude that the decision was not a departure.

- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief finance officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Management Board may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Overview and Scrutiny Management Board. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief finance officer. The Council may either:
- (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (ii) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the monitoring officer or chief finance officer.

Executive Procedure Rules

1. HOW DOES THE EXECUTIVE OPERATE?

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

1.2 Delegation by the Leader

Following the annual meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. This will contain the following information about executive functions in relation to the coming year:

- (i) the extent of any authority delegated to Executive members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- (iii) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements; and
- (iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may delegate further to joint arrangements or an officer.
- (b) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (c) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

- (a) The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Head of Legal and Democratic Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Head of Legal and Democratic Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when he has served it on its chairman.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive meetings – when and where?

The frequency and timing of meetings of the Executive will be determined by the Leader. The Executive will meet at the Council's main offices or another location to be agreed by the Leader.

1.7 Public or private meetings of the Executive?

The Executive will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (d) of Regulation 21(1) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. Briefly, these circumstances cover:

- (a) confidential information;
- (b) exempt information;
- (c) advice of a political adviser or assistant; and
- (d) disorderly conduct.

1.8 Quorum

- (a) The quorum for a meeting of the Executive shall be 3 including the Leader or Deputy Leader.
- (b) The quorum for a meeting of a committee of the Executive shall be 2.

1.9 How are decisions to be taken by the Executive?

- (a) Executive decisions made by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

The Leader will preside at any meeting of the Executive or its committees at which he is present. In his absence, the Deputy Leader will preside.

2.2 Who may attend?

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

2.3 What business?

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Executive (whether by the Overview and Scrutiny Management Board or one of the other Scrutiny Committees or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from the Overview and Scrutiny Management Board and Scrutiny Committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation undertaken with stakeholders and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the executive agenda?

- (a) The Leader will decide upon the schedule for meetings of the Executive. He may put any matter on the agenda of any Executive meeting whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.

- (b) Any member of the Executive may require the Head of Legal and Democratic Services to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.
- (c) The head of paid service, the monitoring officer and/or the chief finance officer may include an item for consideration on the agenda of an Executive meeting and may require that such a meeting be convened in pursuance of their statutory duties.

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Overview and Scrutiny Procedure Rules

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

The Council will have an Overview and Scrutiny Management Board and the Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. The Board and such Committees may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such Groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

2. Who may sit on Overview and Scrutiny Committees?

All Councillors except Members of the Executive, the Executive Support Members and the Chairman of the County Council shall be eligible for appointment as Members of the Overview and Scrutiny Management Board or a Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he has been directly involved.

3. Co-optees

Each Scrutiny Committee shall be entitled to appoint a maximum of five people as non-voting co-optees either as standing members of the Committee or on a time limited basis. The selection and nomination of co-opted members shall be in accordance with the Protocol agreed by the Overview and Scrutiny Management Board.

4. Education representatives

The Overview and Scrutiny Management Board and each relevant Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 3 parent governor representatives.

A relevant Scrutiny Committee in this paragraph is a Scrutiny Committee of a Local Education Authority, where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Overview and Scrutiny Management Board or relevant Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

5. **Meetings of the Overview and Scrutiny Management Board and Scrutiny Committees**

- (a) There shall be at least 6 ordinary meetings of the Overview and Scrutiny Management Board in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Management Board meeting may be called by the Chairman of the Overview and Scrutiny Management Board or by the Head of Legal and Democratic Services if he considers it necessary or appropriate.
- (b) There shall be at least four meetings of each Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee may be called by the Chairman of the relevant Committee or by the Head of Legal and Democratic Services if he considers it necessary or appropriate.
- (c) The Overview and Scrutiny Management Board and the Scrutiny Committees may set up ad hoc groups including non-voting co-opted members to carry out specific projects and report their findings to the appointing Board or Committee.
- (d) The Chair and Vice-Chair of the Overview and Scrutiny Management Board acting together shall be authorised to take urgent action in relation to the allocation of projects to a Scrutiny Committee or an ad hoc group following consultation with the appropriate Chair of a Scrutiny Committee.

6. **Adults, Well-Being and Health Scrutiny Committee**

The Adults Well-Being and Health Scrutiny Committee shall have powers to deal with routine matters within its jurisdiction subject to reporting for information to the Overview and Scrutiny Management Board. However, where policy issues are concerned, including consultations about substantial changes in relation to Health Services, a report shall be submitted to the Overview and Scrutiny Management Board and to the Council's Executive for information.

7. **Quorum**

The quorum for an Overview and Scrutiny Management Board or a Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

8. Who Chairs Overview and Scrutiny Committee meetings?

- (a) There shall be a Chair and a Vice-Chair of the Overview and Scrutiny Management Board and each Scrutiny Committee.
- (b) In the absence of a Chair the Vice-Chair can exercise the powers of the Chair.
- (c) The Chair and the Vice-Chair of the Overview and Scrutiny Management Board shall be entitled to attend each Scrutiny Committee as an ex-officio member.

9. Work programme

Each Scrutiny Committee will, following consultation with the Chair and Vice-Chair of the Overview and Scrutiny Management Board, set its own work programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

10. Agenda items

- (a) Any Member of the Overview and Scrutiny Management Board or a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Head of Legal and Democratic Services that he wishes an item relevant to the functions of the Board, Committee or Sub-Committee to be included on the agenda for the next available meeting of the Board, Committee or Sub-Committee. Seven working days notice of the item should be given to the Head of Legal and Democratic Services together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

On receipt of such a request, so long as it is an appropriate matter to be considered, the Head of Legal and Democratic Services will ensure that it is included on the next available agenda.

- (b) The Overview and Scrutiny Management Board and the Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Management Board shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview and Scrutiny Management Board or Scrutiny Committee within one month of receiving it.

11. **Policy review and development**

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

12. **Reports from the Overview and Scrutiny Management Board and Scrutiny Committees**

- (a) All formal reports from Scrutiny Committees will be reported to the Overview and Scrutiny Management Board before submission to the Executive or the Council except in special circumstances with the agreement of the Chair and Vice-Chair of the Overview and Scrutiny Management Board.
- (b) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Management Board will prepare a formal report and submit it to the Head of Legal and Democratic Services for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (c) If an Overview and Scrutiny Management Board cannot agree on one single final report to the Council or Executive as appropriate, one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

- (d) The Council or Executive shall consider the report of the Overview and Scrutiny Management Board within one month of it being submitted to the Head of Legal and Democratic Services.

13. **Making sure that Overview and Scrutiny reports are considered by the Executive**

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. The reports of the Overview and Scrutiny Management Board referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Executive within two months, the Executive will give an explanation of the reasons to the Chair of the Overview and Scrutiny Management Board as soon as practicable.
- (b) The Overview and Scrutiny Management Board and the Scrutiny Committees will have access to the Executive's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Management Board following a consideration of possible policy/service developments, the Board will be able to respond in the course of the Executive's consultation process in relation to any key decision.
- (c) Where the Executive has delegated decision-making power to another individual member of the Executive the Overview and Scrutiny Management Board will submit a copy of their report to him for consideration. At the time of doing so the Overview and Scrutiny Management Board shall serve a copy on the Head of Legal and Democratic Services. The Member with delegated decision-making power must consider the report and respond in writing to the Overview and Scrutiny Management Board within four weeks of receiving it. A copy of his written response to it shall be sent to the Head of Legal and Democratic Services and the Leader. The Member will also attend a future meeting of the Overview and Scrutiny Management Board to present their response.

14. Rights of the Overview and Scrutiny Management Board and Scrutiny Committee Members to documents

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Management Board and the Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Management Board and the Scrutiny Committees as appropriate depending on the particular matter under consideration. Indeed, the aim will be to develop a positive and constructive relationship between the Executive and the Overview and Scrutiny function.

15. Members and Officers giving account

- (a) The Overview and Scrutiny Management Board and any Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Executive, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performanceand it is the duty of those persons to attend if so required.
- (b) For this purpose, senior officer includes any chief officer, deputy chief officer, third tier officer and other appropriate senior officer. Where there are concerns about the appropriateness of the officer who should attend, the relevant chief officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- (c) Where any member or officer is required to attend the Overview and Scrutiny Management Board or a Scrutiny Committee under this provision, the Chair of that Committee will inform the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the member or officer, if necessary in writing, giving at least 7 working days notice of the meeting at which he is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he is required to attend to give account and whether any papers are required to be produced for the Board or Committee.

Where the account to be given to the Overview and Scrutiny Management Board or Scrutiny Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Management Board or Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

16. **Attendance by others**

The Overview and Scrutiny Management Board or a Scrutiny Committee may invite people other than those people referred to in paragraph 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

17. **Call-in**

- (a) The Overview and Scrutiny Management Board has the power to call in decisions made by the Executive (which term shall also include a Joint Committee) but not yet implemented. The purpose is to consider whether to recommend that a decision be reviewed by the Executive. This is a power which should only be used in exceptional circumstances and cannot be used in respect of day-to-day management and operational decisions.
- (b) When a decision is made by the Executive, an individual member of the Executive with delegated powers or under joint arrangements, notice of the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All Overview and Scrutiny Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called in under the provisions set out below.
- (d) Within that period:
 - (i) the Chair or, in his absence the Vice-Chair of the Overview and Scrutiny Management Board; or
 - (ii) any five members of the Overview and Scrutiny Management Board or the 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 Head of Legal and Democratic Services. The notice should give reasons for the request for call-in, having regard to the principles of decision making set out in Article 12 of this Constitution.

- (e) On receipt of the notice the Head of Legal and Democratic Services will, as soon as possible, seek the views of the Chair or in his absence, the Vice-Chair of the Overview and Scrutiny Management Board, or in the absence of both, a Chair or Vice-Chair of another Scrutiny Committee.
- (f) The Chair or Vice-Chair to whom the request is referred will consider whether the request is reasonable. They will take account of whether a case has been made out for calling in the decision 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 Chief Finance Officer on this point.
- (g) If it is considered that the request for call-in is reasonable, the Head of Legal and Democratic Services will convene a meeting of the Overview and Scrutiny Management Board within 7 working days, after consulting the Chair of the Board about the date. The Board will then proceed as in sub-paragraph (i) below.
- (h) If the Chair or Vice-Chair to whom the request is referred consider that the request is unreasonable the decision will not be called in. The Head of Legal and Democratic Services will submit a report to the next available meeting of the Overview and Scrutiny Management Board giving details of the request and Chair's/Vice-Chair's reasons for refusing it.
- (i) Where the Overview and Scrutiny Management Board considers a call-in request, the format of the meeting will be as follows:-
- after the Chair opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
 - the relevant portfolio holder (or holders if more than one is relevant) will then be invited to make any comments;
 - the relevant Corporate Director or his representative will advise the Board on the background and context of the decision and its importance to achieving Service priorities;

- Board members will ask questions of members and officers in attendance;
- the portfolio holder(s) will be invited to make any final comments on the matter.

The Board, after considering the evidence presented to the meeting, will make one of the following decisions:

- to take no further action, in which case the decision will take effect immediately;
 - to refer the decision back to the decision-maker for reconsideration, setting out the nature of the Board's concerns; the decision-maker must then re-consider the matter with a further 10 working days, taking into account the concerns of the Overview and Scrutiny Management Board, before making a final decisions;
 - to refer the matter to full Council, in which case paragraph (k) below will apply; or
 - to refer the matter to a sub group of the Board for further consideration and report back to the Board within a specified period not exceeding 14 days, in which case the Board will, at its reconvened meeting take one of the decisions set out above; if the Board does not reconvene within 14 days or does reconvene but does not refer the matter back to the decision maker or to the full Council, the decision will take effect on the date of the reconvened Board meeting or the expiry of that further 14 day period, whichever is the earlier.
- (j) If, following a request for call-in, the Overview and Scrutiny Management Board does not meet in the period set out above, or does meet but does not refer the matter back to the decision maker or to full Council, the decision will take effect on the date of the relevant Board meeting, or the expiry of that further 7 working day period, whichever is the earlier.
- (k) If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with the Council's

views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

- (l) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

18. **Exceptions**

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (i) that the Overview and Scrutiny Management Board may only call-in a maximum of 3 decisions per three month period;
- (ii) that call-in can be invoked in respect of a decision only once;
- (iii) that call in will not apply to individual decisions made by the Audit Committee, the Planning Committee, the Highways Committee, the Statutory Licensing Committee, the General Licensing and Registration Committee, the Appeals and Complaints Committee, the Chief Officers' Appointments Committee, the Standards Committee or the Human Resources Committee, or any Sub-Committee of those Committees.

19. **Call-in and Urgency**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council in consultation with the Chair of the Overview and Scrutiny Management Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the Council, the Vice-Chairman's consent shall be required (again in consultation with the Chairman of the Overview and Scrutiny Management Board). In the absence of both the Chairman and Vice-Chairman of the Council, the Chief Executive or his nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

20. **Independence**

The purpose of Overview and Scrutiny is to hold decision-makers to account. Members of the Overview and Scrutiny Management Board or a Scrutiny Committee should, therefore, approach any Scrutiny process in an open manner irrespective of political allegiance.

21. **Procedure at Overview and Scrutiny Committee meetings**

- (a) The Overview and Scrutiny Management Board and Scrutiny Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest;
 - (iii) consideration of any matter referred to the Board or Committee for a decision in relation to call in of a decision;
 - (iv) responses of the Executive to reports of the Overview and Scrutiny Board;
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Management Board or a Scrutiny Committee conduct investigations (e.g. with a view to policy development), the Board or Committees may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all Members of the Board or Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy;
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Board or Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

Contract Procedure Rules

1. BASIC PRINCIPLES

All procurement procedures must:

- meet Best Value by achieving the optimum combination of whole life costs, quality and benefits to meet the customer's requirement
- be consistent with the highest standards of integrity
- operate in a transparent manner
- ensure fairness in allocating public contracts
- comply with all legal requirements
- support the Council's corporate and service aims and policies
- comply with the Council's corporate Procurement Strategy and Procurement Code of Practice (PCoP) or documented and approved sourcing strategy.

NB These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise.

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 Officers will comply with these Contract Procedure Rules (CPRs), the basic principles set out in Rule 1 above, the Council's Constitution and with all UK and European Union legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers will:

- have regard to the guidance in the PCoP,
- keep the records required by Rule 6 of these CPRs
- take all necessary procurement, legal, financial and professional advice taking into account the requirement of these CPRs.

- Prior to letting a County Council contract Procurement Officers will check whether an appropriate national, regional or collaborative contract is already in place (as outlined in the PCoP). Where an appropriate contract is in place then this must be used unless previously agreed in line with Rule 3 of these CPRs

2.1.3 Officers will ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and legal advice from within the Council is obtained prior to proceeding with the inviting of tenders or quotations.

2.1.4 Failure to comply with any of the provisions of these CPRs, the Code of Practice, the Council Constitution or UK and European Union legal requirements may be brought to the attention of the Monitoring Officer or Head of Internal Audit. Depending on the nature of the failure this may result in disciplinary action. For further details refer to the Council's Financial Procedure Rules.

2.2 Chief Officers

2.2.1 Chief Officers will:

- ensure compliance within their Service with these CPR's
- keep a register of exemptions recorded under Rule 3.2. of these CPR's
- ensure contracts are recorded in the Corporate Contracts Register as held and maintained by Corporate Procurement as outlined in the PCoP.

3. EXEMPTIONS, WAIVERS AND VARIATIONS

3.1 Except where Public Contract Regulations 2006 apply, the Executive has power to waive any requirements within these CPRs for specific projects.

3.2 Additionally, these Rules may be waived or varied where or to the extent that the circumstances are certified by the Corporate Director, Resources, advised as appropriate by the Corporate Procurement Manager, as falling within any of the following:

- (a) for works, supplies and services which are patented as proprietary or of special character and for which it is not possible to obtain competitive prices;
- (b) for supplies purchased or sold in a public market or auction;

- (c) for the execution of works or services or the purchase supplies involving specialist or unique knowledge and skills;
 - (d) with an organisation which has won a contract for an earlier phase of work via a competitive process and where the work forms part of a serial programme and has previously been identified as such;
 - (e) with a organisation already engaged by the Council for a similar and related procurement and where the contract terms permit;
 - (f) for works, supplies and services which are obtainable only from one organisation; or
 - (g) as involving such urgency that it would not be feasible to comply.
- 3.3 The appropriate Procurement Officer will submit an Exemption Form as contained within the PCoP for approval by the Corporate Procurement Manager and the Corporate Director, Resources.
- 3.4 Every Exemption Form will be recorded on a master log to be retained in and maintained by the Corporate Procurement team.
- 3.5 The CPRs do not apply to contracts:
- for the execution of mandatory works by statutory undertakers;
 - with OFSTED for the inspection of a school;
 - which have been dealt with on the Council's behalf:
 - through collaboration with other local authorities or other public bodies, where a competitive process which complies with the CPRs of the leading organisation has been carried out;
 - by National or Regional contracting authority where the process followed is in line with the Public Contract Regulation 2006 e.g. North Eastern Purchasing Organisation, Office of Government Commerce, Purchasing and Supply Agency; or
 - under the terms of a strategic partnership arrangement approved by the Executive.
- 3.6 The use of e-procurement technology does not negate the requirement to comply with all elements of these CPRs.

4. RELEVANT CONTRACTS

4.1 All Relevant Contracts must comply with these CPRs. A Relevant Contract is any arrangement made by, or on behalf of the Council (including schools) for the carrying out of works, supplies or services. These include arrangements for:

- the supply or disposal of goods
- the hire, rental or lease of goods or equipment
- the delivery of services, including (but not limited to) those related to:
 - the recruitment of staff
 - land and property transactions
 - financial and consultancy services.

4.2 Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the authority, or
- Agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply).

5. STEPS PRIOR TO PURCHASE

In accordance with the PCoP the Procurement Officer must appraise the purchase, in a manner commensurate with its complexity and value.

6. RECORDS

Details of the records which need to be kept in relation to these CPRs are outlined in the PCoP and should as a minimum include budget, whole life cost of decision, basis of decision and any savings accrued.

Public Contract Regulations 2006 also require contracting authorities to maintain the following comprehensive records of all procurement activities:

- contract details e.g. value
- selection decision
- justification for use of the selected procedure

- names of tenderers, successful or otherwise
- reasons for selection
- reasons for abandoning a procedure

7. ADVERTISING, APPROVED LISTS AND FRAMEWORK ARRANGEMENTS

7.1 Advertising

7.1.1 Procurement Officers shall ensure that, where proposed contracts, irrespective of their total value, might be of interest to organisations located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to bidding organisations from other member states, or the greater the value of the contract, the wider the coverage of the advertisement should be. Such advertisements should be placed where appropriate and as outlined in the PCoP.

7.2 Approved Lists

7.2.1 Approved lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved lists cannot be used where the Public Contract Regulations 2006 apply.

7.3 Framework Agreements

NB Framework agreements are agreements between the Council and suppliers for the provision of goods, works or services on agreed terms for a specific period for estimated quantities against which orders may be placed if and when required during the contract period.

7.3.1 The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

7.3.2 Where Frameworks are awarded for several organisations, contracts based on Framework Agreements may be awarded by either:

- applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or

- where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
 - inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written Tenders
 - fixing a time limit which is sufficiently long to allow Tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
 - awarding each contract to the tenderer who has submitted the best Tender on the basis of the Award Criteria set out in the specifications of the Framework Agreement.

8. COMPETITION REQUIREMENTS FOR PROCUREMENT, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

8.1 Competition Requirements

- 8.1.1 The Procurement Officer must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded.
- 8.1.2 Quotations or tenders must then be invited in line with the financial levels detailed in the PCoP.
- 8.1.3 Where the Public Contracts Regulations 2006 apply the Procurement Officer shall consult Corporate Procurement to determine the procedure for conducting the procurement.

8.2 Assets for Disposal

Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.

9 PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The Procurement Officer responsible for the procurement:
 - may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation, but

- must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential organisations or distort competition, and
- should seek advice from Corporate Procurement and refer to the PCoP.

10 EVALUATION CRITERIA AND STANDARDS

10.1 Evaluation Criteria

- 10.1.1 In any procurement the successful organisation should be the one that generates the most advantageous balance between quality and cost over the life of the procurement exercise. This means that a contract need not be awarded solely on the basis of lowest price if a higher cost is justified on value for money grounds bearing in mind whole-life costs and quality related issues.
- 10.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include sustainability considerations, local employment issues or the use of sub-contractors. The tenderers' approach to continuous improvement and setting targets for service improvement or future efficiency savings could also be included. All criteria used must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable.
- 10.1.3 It is important, therefore, that a means of assessing value for money is built into the tendering process. Mechanisms for achieving this include pricing schedules, whole life costing, questionnaires, method statements, references, etc.
- 10.1.4 Procurement Officers should ensure that care is taken to explain to participating organisations how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high level criteria, how the high level criteria are to be divided into any sub-criteria and, if possible, what the weightings attached to each of the sub-criteria are.

10.2 Standards

- 10.2.1 Relevant British, European and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality, must be included within the contract.

Further guidance on Evaluation Criteria and Standards are outlined in the PCoP.

11. INVITATIONS TO TENDER/QUOTATIONS

Invitations to Tender/Quotations must be issued in the format detailed in Rule 16 of these CPR's and outlined in the PCoP.

The Council's e-tendering system is the default option in the dispatch of procurement documents. Details on the system and arrangement for access are outlined in the PCoP.

12. SHORTLISTING

Any shortlisting must have regard to the financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to the EU Procedure. Officers must follow the guidance outlined in the PCoP.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

13.1 Tenders

13.1.1 Organisations must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. The Public Contract Regulations 2006 lay down specific time periods (see guidance in the PCoP).

13.1.2 The Council's default option for tendering will be electronically via the Council's e-tendering system. Further information is outlined in the PCoP.

13.1.3 In extreme cases, e.g. system failure, any request to obtain an exemption from utilising the Council's approved e-tender system must be made to the Head of Corporate Procurement using the e-tender Exemption form contained in the PCoP.

13.2 Quotations

The Council's preferred option for the requesting of Quotations will be electronically via the Council's e-tendering system. Further information is outlined in the PCoP.

13.3 Electronic Arrangements

13.3.1 Tenders which are received electronically via the official Council e-tender system will be opened by a representative from Resources Directorate. Representatives of the Chief Officer who invited the tender will be automatically notified by e-mail when the tender submissions are available for viewing.

13.3.2 Quotations which are received electronically via the official Council e-tender system will be opened by the Procurement Officer. The system will not allow any quotations to be opened until the allocated return date/time.

13.4 Hard Copy Arrangements

- 13.4.1 In the event that 'hard copy' tenders are to be accepted (see Rule 13.1.3 of these CPR's for guidance) then these tenders must be submitted, sealed, in the envelope provided with the tender documents and addressed to the Corporate Director, Resources without any mark revealing the tenderer's identity.
- 13.4.2 All hard copy quotations must be submitted in a plain envelope marked 'Quotation for' followed by a description of the goods, works or services being procured.
- 13.4.3 Quotations will be received directly by Service staff. All quotations must all be opened together once the official return date/time has been passed.
- 13.4.4 All tenders will be held by the Corporate Director, Resources until the tender opening day/time has been reached.
- 13.4.5 All postal tenders for the same contract will be opened at the same time by a representative of the Chief Officer who invited the tenders and a representative of the Corporate Director, Resources. A register of tenders received will be kept by Resources and will be initialed on each occasion by the officers who are present at the opening of the tenders.

13.5 Late Submissions

Any tender or quotation received after the return date/time may, at the discretion of the Corporate Director, Resources, be opened and the tender or quotation considered providing that the other tenderers/quotation respondees for the same contract have not yet been opened.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

Procedures relating to the Clarification procedure and Post Tender Negotiation are outlined in the PCoP.

15. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING of ORGANISATIONS

15.1 Evaluation and Debriefing

Evaluation and the Debriefing of organisations must be conducted in line with the guidance detailed in the PCoP.

15.2 Award of Contract

15.2.1 Where procurement has been subject to Public Contract Regulations 2006 then the **Alcatel Standstill** (a 10 day standstill period before a contract can be awarded to allow an unsuccessful tenderer an opportunity to challenge the proposed contract award) will need to be included in the procurement timetable before the contract can be awarded. Full information regarding the Alcatel Standstill is contained within the PCoP.

15.2.2 Decisions on award of contract must be made within the scheme of delegations in Part 3 of the Constitution.

16. CONTRACT DOCUMENTS

16.1 Format of Contract Documents:

The Council's harmonised quotation and tender documents or conditions issued by a relevant professional body will be used. These are available from Corporate Procurement or Service area procurement staff detailed in the PCoP.

16.2 Contract Formalities:

Contract Agreement must:

- (a) be made under the Council's seal and attested as required by the Council's Constitution, or
- (b) be signed by at least 2 officers of the Council authorised as required by the Council's Constitution.

16.3 Legal Services Review of Tenders and Contracts

To ensure the integrity of the tendering process

- All proposed invitations to tender, where they are not in compliance with the County Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by Legal Services.
- All proposed contracts where there are any deviations from the contract terms included in the invitation to tender shall be reviewed by Legal Services.

Details of this process are included in the PCoP.

17. BONDS AND PARENT COMPANY GUARANTEES

- 17.1 The Procurement Officer must consult the Head of Finance in the Resources Service about whether a Parent Company Guarantee is necessary when an organisation is a subsidiary of a parent company.
- 17.2 The Procurement Officer must consult the Head of Finance about whether a Bond is needed.

Further information is included in the PCoP.

18. PREVENTION OF CORRUPTION

Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.

19. DECLARATION OF INTERESTS

Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

20. CONTRACT MANAGEMENT

- 20.1 Heads of Service in sponsoring Services shall designate contract managers for all contracts prior to award. All contracts must have an appointed contract manager for the entirety of the contract.
- 20.2 Contract managers must follow the procedures set out in the Council's PCoP

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

For all procurements, a written risk assessment of the tenderers must be carried out as part of the selection process for potential organisations.

In cases of urgency, this risk assessment may be carried out as part of the procurement process, but must be completed prior to the letting of a contract.

This risk assessment must ensure where relevant and appropriate that the Council's minimum standards in relation to technical competence, health and safety, insurance arrangements, equality and diversity policies, sustainability policies, environmental policies and financial standing are met.

A risk assessment proforma is included in the PCoP

22. CONTRACT MONITORING, EVALUATION AND REVIEW

Contract Monitoring, Evaluation and Review must be conducted in line with the guidance detailed in the PCoP

23. REVIEW AND AMENDMENT OF CPRS

These Contract Procedure Rules shall be reviewed and updated on an annual basis by the Corporate Procurement Manager in consultation with relevant Chief Officers.

24. INTERNAL PROVIDERS

Where it is agreed that an In-House Provider will be considered in general competition for the provision of goods, works or services care must be taken to ensure a fair process between the In-House Provider and external bidders.

DRAFT 05.03.09

Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

- (i) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an officer must state in writing whether they have **any** relationship with any councillor or officer of the Council;
- (ii) No candidate so related to a Councillor or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him.

(b) Seeking support for appointment

- (i) 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) No Councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Chief Executive and Chief Officers

Where the Council proposes to appoint a Chief Executive or a chief officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement including the following:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the procedures mentioned in paragraph (1) to be sent to any person on request.

3. **Appointments and Dismissals**

Chief Officers

In this paragraph –

“the Committee” means the Chief Officer Appointments Committee.

“the proper officer” means the Head of Legal and Democratic Services

- (a) The appointment and dismissal of the Chief Executive, Chief Officers and any assistant for political groups (appointed in pursuance of Section 9 of the Local Government Housing Act 1989) is the responsibility of the Committee.
- (b) At least one member of the Executive must be a member of the Committee.
- (c) Where the Committee is proposing to appoint or dismiss the Chief Executive, the County Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.
- (d) The Committee shall not make an offer of appointment in relation to any of the officers named in (a) above (apart from an assistant for political groups) until;
 - (1) The Committee has notified the proper officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
 - (2) The proper officer has notified every member of the Executive of the authority of:
 - (i) The name of the person to whom the Committee wishes to make the offer;
 - (ii) Any other particulars relevant to the appointment which the Committee has notified to the proper officer; and
 - (iii) The period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the proper officer; and

- (3) Either:
- (i) The Executive Leader has, within the period specified, notified the Committee that neither he nor any other member of the Executive has any objection to the making of the offer;
 - (ii) The proper officer has notified the Committee that no objection was received by him within that period from the Executive Leader; or
 - (iii) The Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.
- (e) Notice of the dismissal of an officer named in (a) above must not be given by the Committee until –
- (1) The Committee has notified the proper officer of the name of the person who the Committee wishes to dismiss and any other particulars which the Committee considers are relevant to the dismissal;
 - (2) The proper officer has notified every member of the Executive of the Authority of:
 - (i) The name of the person who the Committee wishes to dismiss;
 - (ii) Any other particulars relevant to the dismissal which the Committee has notified to the proper officer; and
 - (iii) The period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the proper officer; and
 - (3) Either –
 - (i) The Executive Leader has, within the period specified, notified the Committee that neither he nor any other member of the Executive has any objection to the dismissal;
 - (ii) The proper officer has notified the Committee that no objection was received by him within that period from the Executive Leader; or

- (iii) The Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.
- (f) Where a member of the Executive attends the Committee set up to deal with a particular appointment or dismissal then such attendance shall constitute notice of and compliance with the requirements of (d) and (e) above.

Other Officers

- (a) Appointment and dismissal of officers below Deputy Chief Officer is the responsibility of the Chief Executive or his nominee, and may not be undertaken by councillors.
- (b) Councillors will not be involved in disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

4. Disciplinary Action

In this paragraph –

“disciplinary action” includes proposed dismissal for any reason other than redundancy, permanent ill-health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.

(a) Written Procedures

- (i) Disciplinary action against the officers referred to in 3(a) above and against the Monitoring Officer will be taken in accordance with the County Council's Chief Officer Procedures.
- (ii) Disciplinary action against all other officers will be taken in accordance with the County Council's Local Disciplinary Policy Procedure and Toolkit.

(b) Independent Person

No disciplinary action may be taken under 4(a)(i) above except in accordance with a recommendation in a report made by a designated independent person.

(c) **Suspension**

An officer named in 3(a) above and the Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay.

5. **Appeals**

None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal by:

- (i) any person against any decision relating to the appointment of that person as a member of staff of the authority; or
- (ii) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned retirement where the member of staff has less than six months notice – in these instances the appeal shall be conducted by a senior officer.

6. **Appointment of Political Assistants**

For the purposes of Section 9(2)(d) of the Local Government and Housing Act 1989 (the 1989 Act):

- (a) no appointment shall be made to any post allocated to a political group until the Council has allocated a post to each of the groups which qualify for one;
- (b) no political group shall be allocated a post unless it qualifies for one under the 1989 Act; and
- (c) no political group shall be allocated more than one post.

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Part 5

Codes and Protocols

DRAFT 05.03.09

**CODE OF CONDUCT
FOR MEMBERS**

Adopted by Durham County Council on 28 June 2007

CODE OF CONDUCT FOR MEMBERS

EXECUTIVE SUMMARY

The revised Code of Conduct is contained within a Statutory Instrument and it covers elected members, co-opted members and independent members of the Standards Committee.

Interpretation	Paragraph 1 The Code applies to any member of the Authority and it is your responsibility to comply with the Code.
Scope	Paragraph 2 The Code applies whenever you are acting in your official capacity, and in relation to conduct in your private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where you are acting as a representative of the Authority, you must continue to observe the Authority's code, unless you are subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

<p>General Obligations</p>	<p>Paragraph 3</p> <p>You must treat others with respect and not to do anything which may cause the Authority to breach equality legislation, or which compromises the impartiality of those who work for the Authority or bully anyone or intimidate persons involved in code of conduct cases.</p> <p>Paragraph 4</p> <p>You must not without consent disclose confidential information you have acquired and you must not prevent others from gaining access to information to which they are entitled.</p> <p>Paragraph 5</p> <p>You must not conduct yourself in a manner which could bring the Authority into disrepute.</p> <p>Paragraph 6</p> <p>You must not use your position improperly to gain an advantage or confer a disadvantage and when using or authorising the use of the Authority's resources, you must act in accordance with the Authority's reasonable requirements, you must not permit those resources to be used for political purposes and you must have regard to the Local Authority Code of Publicity.</p> <p>Paragraph 7</p> <p>You must have regard to advice given by the Chief Finance Officer and Monitoring Officer and must give reasons for decisions made in accordance with any statutory requirements.</p>
<p>Personal Interests</p>	<p>Paragraph 8</p> <p>This paragraph provides a list of matters which constitute a personal interest.</p>

<p>Disclosure of Personal Interests</p>	<p>Paragraph 9</p> <p>Generally if you have a personal interest in any business of the Authority you must disclose that interest at any meeting at which the business is considered.</p>
<p>Prejudicial Interests</p>	<p>Paragraph 10</p> <p>Generally a personal interest is also a prejudicial interest if that interest could be regarded by a member of the public as so significant that it is likely to prejudice your judgement of the public interest. The paragraph provides that in specified circumstances you may regard yourself as not having a prejudicial interest.</p>
<p>Overview and Scrutiny Committees</p>	<p>Paragraph 11</p> <p>If you have been involved in making a decision or taking action on a matter you must not be involved in the Overview and Scrutiny Committee's consideration of that decision or action.</p>
<p>Participation in Relation to Disclosed Prejudicial Interests</p>	<p>Paragraph 12</p> <p>If you have a prejudicial interest you must, unless, for example, you are making representations and members of the public are also allowed to make representations on that matter, or you have obtained a dispensation, withdraw from any meetings at which the business is being considered, and you must not improperly influence decisions in relation to the business</p>
<p>Registration of Personal Interests</p>	<p>Paragraph 13</p> <p>You must notify the Monitoring Officer of your personal interests and any change to those interests must also be notified.</p>
<p>Notification of sensitive information</p>	<p>Paragraph 14</p> <p>You can notify the Monitoring Officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.</p>

Code of Conduct for Members

PART 1

GENERAL PROVISIONS

1 Introduction and interpretation

- (1) This Code applies to you as a member of the Authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (appended herewith).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code -

“meeting” means any meeting of -

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

- (5) *(Only applicable to parish councils).*

2 Scope

- (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you -
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority -
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3 **General obligations**

- (1) You must treat others with respect.
- (2) You must not -
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006(a));
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be -
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) *(Only applicable to police authorities and the Metropolitan Police Authority).*

- 4 You must not -
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is -
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6 You -
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority -
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by -
 - (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer, where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

PART 2

INTERESTS

Personal Interests

8

- (1) You have a personal interest in any business of your authority where either -
 - (a) it relates to or is likely to affect -
 - (i) 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 your authority;
 - (ii) any body -
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;

- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of –
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) *(only applicable to the Greater London Authority)*
 - (iii) *(only applicable to all other cases).*

- (2) In sub-paragraph (1)(b), a relevant person is -
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(a).

Prejudicial interest generally

10

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business -
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of -
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where -

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority -
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held -
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

PART 3

Registration of Members' Interests

13

- (1) Subject to paragraph 14, you must, within 28 days of –
 - (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

**THE GENERAL PRINCIPLES WHICH GOVERN THE
CONDUCT OF MEMBERS**

**Extract from “The Relevant Authorities (General Principles) Order 2001:
Statutory Instrument 2001 No. 14012**

1	<i>Selflessness</i>	Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2	<i>Honesty and Integrity</i>	Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3	<i>Objectivity</i>	Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4	<i>Accountability</i>	Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5	<i>Openness</i>	Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6	<i>Personal Judgement</i>	Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

7	<i>Respect for Others</i>	Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
8	<i>Duty to Uphold the Law</i>	Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9	<i>Stewardship</i>	Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
10	<i>Leadership</i>	Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1. INTRODUCTION

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between members and officers and between the public and the council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
 - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
 - Members should not place themselves in situations where their honesty or integrity may be questioned.
 - Members should make decisions on merit.
 - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
 - Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
 - Members should respect the impartiality and integrity of officers.

- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that members and officers of the County Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 This code is largely based upon the Local Government Association's revised guidance note of good practice issued in 2002, which takes account of the new ethical framework for local government introduced by the Local Government Act 2000. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Audit Commission, the Commissioners for Local Administration in England and the National Planning Forum. It complements the Council's Code of Conduct for Members. This code is consistent with meeting the requirements of Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.
- 1.7 Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS

- 2.1 Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 2.2 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.3 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the County as a whole.

- 2.4 Whilst members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.5 Members shall follow the advice in the Council's Code of Conduct about accepting gifts and hospitality. Members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its members or other officers, have prevailed upon the officer to put forward his or her professional view as something other than it really is.
- 2.8 The County Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 The County Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. A superior officer shall not have the power to overrule the professional advice of the head of the planning service.
- 2.10 Officers shall follow the guidance on their standards of conduct as set out in the County Council's Staff Guidance, the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.

3. DECLARATION OF PERSONAL INTERESTS

- 3.1 The Council's Model Code of Conduct advises members on the disclosure of a personal interest and whether it is a prejudicial interest. Personal interests include those of relatives or friends. Relatives are defined in the Code. Friends are not defined but the Standards Board for England suggests it is someone well known to the member and regarded with liking, affection and loyalty, that is a closer relationship than mere acquaintance. If in doubt the Monitoring Officer's advice should be sought.

- 3.2 If the interest is personal and prejudicial the member shall declare it at the earliest opportunity, must withdraw from the room where the matter is being considered and must not try to influence those making the decision or take any part in the consideration or determination of the matter.
- 3.3 Where a member has a personal interest that is not prejudicial under the Council's Model Code of Conduct, the member, when attending a meeting of the Council at which the matter is considered, shall declare it at the commencement of the meeting and may participate in the discussion and vote on the matter.
- 3.4 If a member, in advance of the decision-making meeting, has taken a fixed view on the planning matter, the member would not be able to demonstrate that all the relevant facts and arguments had been taken into account and he or she would have fettered his or her discretion. In that case the member would have to declare a personal and prejudicial interest. Therefore members should scrupulously avoid forming a fixed view on the issue in advance and avoid giving the impression that they have predetermined the issue. The test is whether a fair-minded and informed observer, having considered the facts, would decide that there is a real possibility that the member had predetermined the issue.
- 3.5 Members who have previously participated in a decision to propose a particular development shall declare a personal and prejudicial interest at the commencement of the planning committee when the application is considered and shall withdraw and not participate in the discussion or vote on the matter. An example would be a member who was a governor of a school which was putting forward a planning application.
- 3.6 Serving members who act as agents for persons pursuing planning matters within their authority shall play no part in the decision-making process for those proposals. Similarly, if they submit their own proposal to the authority on which they serve, they should play no part in its consideration. When submitting proposals on behalf of themselves or others, the member shall inform the Monitoring Officer of the submission.
- 3.7 Officers must always act impartially. An officer who believes he or she may be seen to have a personal and prejudicial interest in a planning matter, shall declare it at the earliest opportunity, so advising the Head of Planning and the Monitoring Officer and have no further involvement in the processing or consideration of that matter.
- 3.8 Planning officers shall never act as agents for persons pursuing a planning matter within the county or one outside significantly affecting the county.

4. 'DUAL-HATTED MEMBERS'

- 4.1 The Council's Code of Conduct does not automatically prevent members from considering the same issue at more than one tier of local government, including speaking and voting at both tiers.
- 4.2 For example, if a member is also a member of a parish council, and the parish council is consulted on a planning application to be determined by the Planning Committee, the member may participate in the discussion and vote at the parish council meeting; but it would be prudent to inform the parish council that the member will reconsider the matter taking into account all the information that is put before the Planning Committee. At the subsequent meeting of the Planning Committee the member should declare a personal (but not prejudicial) interest as a member of the parish council which has already expressed a view on the matter, but make it clear that this view does not bind the member who will consider the matter afresh. The member will be free to participate in the debate and vote on the matter.
- 4.3 However, if the Planning Committee considers a planning application by an authority or body on which a member serves, then the member should declare a personal and prejudicial interest and withdraw from the meeting.

5. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY

- 5.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 5.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 5.3 Members of the planning committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local Member when they may speak on matters of local concern but shall not vote.
- 5.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

6. LOBBYING OF AND BY MEMBERS

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a planning committee. However, reacting to lobbying can lead to the impartiality of a member being called into question and require that member to declare an interest.

- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A planning committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members should make clear that they reserve their final decision on a proposal until the committee meeting.
- 6.5 Members of the planning committee shall not, in general, organise support or opposition for a proposal, or lobby other members (other than when addressing the planning committee). Members of the Council shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting but not vote. The member of an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the planning committee, be allowed to attend and speak but not vote. A local member who has a personal or prejudicial interest in an application, within the meaning of the Model Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with a group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, that member shall be given the opportunity to address the Committee.
- 6.8 Members of a planning committee must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the committee meeting shall not be used to decide how members should vote at the planning committee.

7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Members need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when members are involved, it should be part of a structured arrangement with officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by members should be provided to the officers dealing with the application.

8. OFFICER REPORTS TO COMMITTEE

- 8.1 The Head of Planning will submit written reports to the Planning Committee on planning applications to be determined by the County Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Head of Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Head of Planning will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

9. THE DECISION MAKING PROCESS

- 9.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 9.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 9.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 9.4 Where the Planning Committee decide to adopt the recommendation of the Head of Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 9.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning, agreement shall be reached at the meeting on the reasons for that decision. They shall be fully minuted by the Head of Legal and Democratic Services.

10. SITE VISITS BY THE COMMITTEE

- 10.1 A site visit by members of the Planning Committee may be held where a proposal is complex and the impact is difficult to visualise or assess from the plans and supporting information.
- 10.2 Site visits will be organised in accordance with the following procedures:
- (i) The Planning Committee may authorise a site visit.
 - (ii) However, in circumstances when it is considered that a planning application is complex so as to merit a special meeting of the Planning Committee (and site visit, if necessary), the Head of Planning and the Head of Legal and Democratic Services, following consultation with the Chairman and Vice-Chairman may make the necessary arrangements for the holding of such a meeting (and site visit if required) without prior authorisation by the Planning Committee.

- (iii) The Head of Legal and Democratic Services will invite the local County Councillor to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chairman of the Planning Committee, the local County Councillor for the adjacent division will also be invited.
- (iv) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
- (v) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
- (vi) On assembling at the site, at the time specified, the Chairman will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning, or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning, the Chairman will bring the site visit to a close.
- (vii) When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application.

11. REPRESENTATIONS ON PLANNING APPLICATIONS

- 11.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members of the Council will be given the opportunity to inspect all letters received before the decision on the application is made.
- 11.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will apply:

- (i) The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. Both the applicant and the objectors will also be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do this and, if so, they will be invited to the meeting at which the decision is to be made.
- (ii) Each group of speakers (objectors and supporters) will be allowed a maximum of five minutes to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.
- (iii) At the meeting the Head of Planning will present his / her report first.
- (iv) The objectors will make their representations, subject to a time limit of 5 minutes (except at the discretion of the Chairman), and may be asked questions by the Committee.
- (v) The applicant will then make his or her representations, subject to a time limit of 5 minutes (except at the discretion of the Chairman), and may be asked questions by the Committee.
- (vi) Officers may comment on the representations and the merits of the application.
- (vii) The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.
- (viii) Where a representative of a Parish/Town Council wishes to speak they will address the meeting before the objectors.

12. REVIEW OF DECISIONS

- 12.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

- 12.2 Visits to application sites previously considered by the County Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 12.3 Attendance at the review site visits shall be restricted to members of the committee and the local County Council member.

REFERENCES

The Local Government Association's revised guidance note of good practice (2002)

The Local Authorities (Model Code of Conduct) England Order 2001 (SI 2001/3575)

The Relevant Authorities (General Principles) Order 2001 (SI 2001/1401)

The Third Report of the Committee on Standards in Public Life (Nolan Committee) (1997)

Royal Town Planning Institute (RTPI) (1994) Code of Professional Conduct

The Standards Board for England's Guidance on Lobby Groups, Dual-Hatted Members and the Code of Conduct (2004)

The Standards Board for England's Occasional Paper on Predisposition, Predetermination or Bias, and the Code (2007)

CODE OF CONDUCT FOR EMPLOYEES

The public is entitled to expect the highest standards of conduct from all employees who work for the County Council. This Code of Conduct outlines the existing rules and conditions of service which apply to you as a County Council employee and is designed to provide clear guidance to assist you in your day-to-day work. It incorporates the national Code of Conduct approved by the local authority associations and has been the subject of consultations with the trade unions recognised by the County Council.

The Code sets out the standards which are expected of you and provides a framework which will help to promote best practice. All employees of the County Council are required to observe and uphold the standards of the Code and all policies and procedures of the County Council. Failure to do so is a serious matter which could result in disciplinary action.

You should therefore read the document carefully, and if you are uncertain about any aspect of its contents, please contact your immediate supervisor.

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1. Standards and Attitude

- 1.1 All employees of the County Council are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 1.2 Your attitude in dealing with people reflects on the County Council so it is important that you are helpful, polite and courteous.
- 1.3 All employees are expected to report, in the first instance, to their manager or supervisor any impropriety, breach of procedure or policy of the Council.
- 1.4 There are a number of mechanisms available to employees to do this; the County Council's complaints procedure, Procedure on Arrestable Offences, Financial Procedure Rules, Discipline & Grievance Procedures and also the Confidential Reporting Code.
- 1.5 In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

2. Confidentiality and Disclosure of Information

- 2.1 The law requires that certain types of information must be available to councillors, auditors, government services, service users and the public. Different rules apply in different situations. If you are in any doubt as to whether you can release any particular information, always check with your manager first.
- 2.2 The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. Also, of course, you should not knowingly pass information on to others who might use it in such a way.
- 2.3 You should not communicate confidential information or documents to others who do not have a legitimate right to know. Information must only be disclosed in accordance with the requirements of the Data Protection Act 1998, which covers computerised and manual information held on individuals. All staff need to bear in mind that an E-mail is as legally binding as a letter and informal messages sent internally can be used in evidence in court proceedings. The Policy and Code of Practice for use of the Internet and E-mail should be followed.
- 2.4 Information given in the course of your duties should be accurate and fair and never designed to mislead.

2.5 Any particular information received by an employee from a councillor which is personal to that councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required by law.

3. **Political Neutrality**

3.1 Employees serve the authority as a whole. It follows that you must serve all councillors equally and ensure that the individual rights of all councillors are respected.

3.2 From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.

3.3 Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work.

4. **Relationships**

Councillors

4.1 Mutual respect between employees and councillors is essential for good local government. Some employees need to work closely with county councillors. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

The Local Community and Service Users

4.2 Employees should always remember their responsibilities to the whole of the community they serve and ensure courteous, effective and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority.

Contractors

4.3 All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your Chief Officer on **Form CCE 1** at the earliest opportunity.

4.4 Orders and contracts must be awarded in accordance with the County Council's Contract Procedure Rules and no special favour should be shown to businesses run by, for example, friends, partners or relatives.

5. **Appointment and Other Employment Matters**

- 5.1 It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments you should do everything possible to ensure that these are made on the basis of merit and in accordance with the County Council's Policy and Manual on Recruitment and Selection.
- 5.2 In order to avoid any possible accusation of bias, you must not become involved in any appointment if you are related to an applicant, or have a close personal relationship with him or her.
- 5.3 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments in respect of any other employee who is a relative or with whom you have a close personal relationship; nor should you attempt to influence such decisions.
- 5.4 Senior officers (i.e. Head of Service and above) must disclose to the Head of Legal and Democratic Services on **Form CCE 2** any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council.
- 5.5 If you apply for promotion or are seeking another job in the County Council, you must not approach any county councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager or supervisor and not with councillors.

6. **Outside Commitments**

- 6.1 Your off-duty hours are your own concern, but you should make sure that you do not allow yourself to get into a position where your private interests come into conflict with your contractual obligations and are detrimental to the interests of the County Council.
- 6.2 Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the County Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete **Form CCE 3** and submit it to your Chief Officer. The County Council will not unreasonably stop officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.
- 6.3 Even if you are not subject to the Green Book provisions you should ensure that none of your outside activities are detrimental to the County Council's interests.

- 6.4 If you write a book or article for payment on subjects relating to your work for the council, you must seek the permission of the Council through your Chief Officer using **Form CCE 3**. The general presumption would be that any fee or royalty payable would be passed over to the County Council.
- 6.5 You must not undertake private or personal work of any description in working hours or in the office unless you have been given specific permission by your Chief Officer.
- 6.6 Private use of County Council facilities, such as stationery and fax machines, is not allowed. Personal use of the telephone is permitted within reason, provided that calls are properly logged and charges paid back to the County Council. Also, you should not arrange to receive correspondence, telephone calls and fax messages in the office related to outside work or private interests.
7. **Personal Interests**
- 7.1 You must declare to your Chief Officer on **Form CCE 4** any financial or non-financial interests which could bring about conflict with the County Council's interests.
- 7.2 If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or supervisor so that a decision can be made as to how best to proceed.
- 7.3 You must not make, or become involved with any official or professional decisions about matters in which you have a personal interest.
- 7.4 Section 117 of the Local Government Act 1972 requires you to make a formal declaration about *contracts or personal contracts* with the County Council in which you have a pecuniary interest. Such declarations should be made on **Form CCE 5** and sent to the Head of Legal and Democratic Services. It is a criminal offence to fail to comply with this provision which is set out in full at **Annex A**.
- 7.5 You must declare to the Head of Legal and Democratic Services *membership of any organisation* not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or membership or conduct, for example, the freemasons. A definition of such an organisation appears at **Annex B**. Such declarations should be made on **Form CCE 6** and sent to the Head of Legal and Democratic Services.

8. Equality

- 8.1 All members of the local community, customers and other County Council employees have a right to be treated with fairness and equity. You should become familiar with and observe all County Council policies relating to equality issues, eg the County Council's Equal Opportunities Policy, in addition to the requirements of the law.

9. Tendering Procedures

- 9.1 Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.2 If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors, you must declare that relationship to your Chief Officer using **Form CCE 4**.
- 9.3 If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.
- 9.4 All employees must ensure that no special favour is shown to current, or recent former, employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

10. Corruption

- 10.1 Employees must be aware that it is a serious criminal offence under the Prevention of Corruption Acts 1906 and 1916 for them to receive or give any gift, loan or reward or advantage in their official capacity "for doing, or not doing, anything", or "showing favour, or disfavour to any person". If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules appear at **Annex C**.
- 10.2 For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Chief Officer.

11. Possible Inducements

Introduction

- 11.1 A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence. There is a checklist to help you at the end of this section.

Gifts Generally

- 11.2 Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the Prevention of Corruption Acts 1906 and 1916. Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you, or to a member of your family, by any person or organisation having dealings with the County Council.
- 11.3 Any such offer should be reported to your Chief Officer (or to the Head of Legal and Democratic Services if you are a Chief or deputy Chief Officer) on **Form CCE 7**.
- 11.4 When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your Chief Officer or the Head of Legal and Democratic Services as appropriate.

Gifts to Employees with a Caring Role

- 11.5 There are sometimes special problems encountered by employees who have a "caring" role, or provide a direct personal service to vulnerable people.
- 11.6 It is not unusual for residents of residential care homes, or for people receiving support at home from County Council employees, or their relatives to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their Will.
- 11.7 It is most important in such situations that employees and the County Council are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, therefore, members of staff and their families are not allowed to accept gifts or legacies from clients.

- 11.8 If you are made aware that a client is considering making a gift to you or including you in their Will, or has actually done so, then you should immediately report the matter to your Manager who will take it up with the client.
- 11.9 Similarly, you should never become involved with making Wills for clients nor act as an Executor in a client's Will.
- 11.10 For the purposes of this section of the Code "client" means any current or former client.
- 11.11 **Exceptions**
- Gifts of a token value given at Christmas, such as calendars, diaries, blotters, pens or other simple items of office equipment for use in County Council offices, but only if it bears the company's name or insignia.
 - Gifts of a promotional nature on the conclusion of a courtesy visit to a factory or company offices, of a sort normally given by the company to visitors.

Hospitality

- 11.12 Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence.
- 11.13 Hospitality is sometimes offered to representatives of the County Council in an official or formal capacity. Normally the only officers who would attend would be Chief Officers and appropriate heads of service.
- 11.14 If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the County Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc, who may stand to benefit from the goodwill of the County Council.
- 11.15 You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.
- 11.16 In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.

- 11.17 Hospitality offered by charitable or social organisations, usually in connection with an invitation to speak to the body, can be accepted.
- 11.18 All offers of hospitality should be reported to your Chief Officer (or to the Head of Legal and Democratic Services if you are a Chief Officer or deputy Chief Officer) on **Form CCE 7**.

Checklist

- 11.19 The question in all these cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.
- Is the donor, or event, significant in the community or County?
 - Are you expected to attend because of your position in the community or County?
 - Will the event be attended by others of a similar standing in the community or in other communities?
 - What do you think is the motivation behind the invitation?
 - Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the County Council?
 - Could you justify the decision to the Council, press and public?
 - Is the extent of the hospitality, or the nature of the gift reasonable and appropriate?
 - Are you likely to be expected to respond to the hospitality, and if so, how?
 - Are you comfortable about the decision?

12. Sponsorship - Giving and Receiving

- 12.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

12.2 Where the County 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 their Chief Officer of any such interest. Similarly, where the County 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.

13. Financial Procedure Rules

13.1 All employees involved in financial activities and transactions on behalf of the County Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders for works, goods or services must follow the Council's Financial Procedure Rules.

13.2 They must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

**ANY BREACHES OF THESE INSTRUCTIONS MAY LEAD TO
DISCIPLINARY ACTION AND COULD LEAD TO DISMISSAL**

CCE Forms – Please note that supplies of CCE forms are available from your Service Administration Section

- CCE 1** Business or Personal Relationships with External Contractor or Supplier
- CCE 2** Relationship with a Candidate for Appointment with the Council
- CCE 3** Application for Approval of Outside Interests or Employment
- CCE 4** Personal Interests
- CCE 5** Pecuniary Interests
- CCE 6** Membership of Secret Societies/Organisations
- CCE 7** Declaration of Offer of Hospitality/Gifts

DRAFT 05.03.09

ANNEX A

LOCAL GOVERNMENT ACT 1972, SECTION 117

1. If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has an pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a member of the authority.

2. An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
3. Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
4. References in this section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

ANNEX B

ORGANISATIONS NOT OPEN TO THE PUBLIC (See paragraph 7.5 of the Code)

Any lodge, chapter, society, trust or regular gathering or meeting (other than a professional association), which:-

- (a) is not open to members of the public who are not members of that lodge, chapter, society or trust; or
- (b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society or gathering or meeting; or
- (c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

ANNEX C

PREVENTION OF CORRUPTION ACT 1906 AND 1916

The Prevention of Corruption Acts 1906 and 1916 say the following about acceptance of gifts by way of inducement or reward:-

- (a) Under the Prevention of Corruption Acts 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:-
 - doing, or refraining from doing, anything in their official capacity; or
 - showing favour or disfavour to any person in their official capacity.
- (b) Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

DRAFT 05.05.2009

Protocol on Member/Officer Relations

1. INTRODUCTION

- 1.1 The purpose of this Protocol is to guide Members and Employees of the County Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.
- 1.3 The Protocol is a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 It also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Employees. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.5 Members and Employees are servants of the public and they depend on each other in carrying out the work of the Authority. Members are responsible to the electorate and serve only so long as their term of office lasts, while Employees are responsible to the Council. Their job is to give advice to the Council, as well as to individual Members, and to carry out the Council's work under the direction and control of the Council and its various bodies
- 1.6 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.
- p
1.7 The relationship has to function without compromising the ultimate responsibilities of Employees to the County Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

2. ROLES OF MEMBERS

- 2.1 Members undertake many different roles. Broadly these are:
 - Members express political values and support the policies of the party or group to which they belong (if any)

- Members represent their electoral division and are advocates for the citizens who live in the area
- Members are involved in active partnerships with other organisations as community leaders
- Members contribute to the decisions taken in full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations
- Members help develop and review policy and strategy
- Members monitor and review policy implementation and service quality
- Members are involved in quasi-judicial work through their membership of regulatory committees

3. **ROLES OF EMPLOYEES**

3.1 Briefly, Employees have the following main roles:

- Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services
- Providing advice to the Council and its various bodies and to individual Members in respect of the services provided
- Initiating policy proposals
- Implementing agreed policy
- Ensuring that the Council always acts in a lawful manner

4. **RESPECT AND COURTESY**

4.1 For the effective conduct of County Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the County Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the County Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

Undue Pressure

- 4.2 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- 4.3 In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- 4.4 A Member should not apply undue pressure on an Employee either to do anything that he 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 County Council property and services.
- 4.5 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. *(The County Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code).*

Familiarity

- 4.6 Close personal familiarity between individual Members and Employees 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.
- 4.7 Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- 4.8 For the above reasons close personal familiarity must be avoided.

Breach of Protocol

- 4.9 If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Corporate Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

4.10 If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Corporate Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution without the need for involvement of the Standards Committee. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

5. PROVISION OF ADVICE AND INFORMATION TO MEMBERS

5.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

5.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 5 working days of the receipt of the enquiry.

5.3 The legal rights of Members to inspect County Council documents are covered partly by statute and partly by common law.

5.4 The Access to Information Rules of the Constitution explain the position with regard to access to papers relating to the business of a Council body.

5.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the County Council. Mere curiosity is not sufficient.

5.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

5.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the County Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend County Council initiated events within their electoral division. (*Further details are contained in the Local Member Consultative Charter*).

- 5.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chairman concerned should be advised about the information provided.
- 5.9 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the “need to know”. Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member’s enquiry that any individual would be entitled to receive such documentation. The Council’s Freedom of Information and Data Protection Coordinator will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

6. PROVISION OF SUPPORT SERVICES TO MEMBERS

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

Correspondence

- 6.2 Official letters on behalf of the County Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the County Council should never be sent out in the name of a Member.

Media

- 6.3 Communication with the media can be an important part of a Member’s workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Corporate Director or Head of Service concerned or ask the Press Office to do so.

7. POLITICAL ACTIVITY

- 7.1 There are a number of constraints that apply to an employee who occupies a post that is designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.

7.2 In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in a);
- (c) being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him –
 - (i) to participate in the general management of the party or branch;
or
 - (ii) to act on behalf of the party or branch in dealings with persons other than members of the party;
- (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in a);
- (e) speaking to the public with the apparent intent of affecting public support for a political party; and
- (f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

7.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

7.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Corporate Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

7.5 Employees are employed by the County Council as a whole. They serve the County Council and are responsible to the Chief Executive and their respective Corporate Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

7.6 Both Members and Employees are subject to their own Code of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Code and this Protocol.

8. **CONCLUSION**

8.1 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of County Durham. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

DRAFT 05.05.19

LOCAL MEMBER CONSULTATIVE CHARTER

The County Council is committed to providing its Elected Members with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Electoral Division and where circumstances render it appropriate to involve a Local Member.

- Corporate Directors and staff will be continually vigilant to identify such matters and ensure that Local Members are informed accordingly. This will also include any matter which could impact upon the neighbouring areas of other Members.
- Corporate Directors will ensure that all correspondence/enquiries from Local Members are dealt with promptly and if necessary Members will be kept advised of progress.
- Appropriate Corporate Directors will ensure that, where the County Council's Constitution allows, Local Members will be invited to meetings and receive the necessary documentation.
- Any matter of significance or sensitivity which relates to a particular Electoral Division or Divisions will be discussed with the Local Member(s) concerned before being submitted for consideration by the Cabinet or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.
- Corporate Directors and staff will regularly brief appropriate Cabinet Members on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
- Details of any petitions received which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader of the Council. Local Members will be kept informed on the progress/outcomes of such petitions.
- Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Parish/Town Councils and the Local Government Ombudsman which relate to matters of any significance or sensitivity in a particular Electoral Division will be sent to the Local Member concerned.
- Copies of all correspondence with MPs and MEPs which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader of the Council.

- Corporate Directors and staff will ensure that as much local service information as possible is provided to local members.
- Complementary to individual contact with Members, Services will maximise the use of the Members' Resource Centre to provide local service information.
- Services will provide every Member with an Officer contact guide for the services they provide, including where appropriate local contacts.
- Wherever appropriate, Services will make Local members aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of County Council projects, schemes, exhibitions etc.
- In certain instances, both Members and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Member(s) concerned a single response to such enquiries.
- As part of a continual review of the Charter's effectiveness, the co-operation of Members is sought in the responsible use at all times of advice and information that is provided to them, and Members are encouraged to advise Officers of the information requirements and of any local circumstances or sensitivities which might have a bearing on the County Council's work.

CONFIDENTIAL REPORTING CODE

DRAFT 05.03.09

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1. Introduction

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant Council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis.

This document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.

The Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers. It also covers suppliers and those providing Services under a contract within the Council in their own premises, for example, care homes.

These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some Services. If asked, employees should make service users aware of the existence of these procedures.

This Code has been discussed with the relevant trade unions and professional organisations and has their support.

2. Aims and scope of the code

This Code aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
- provide avenues for you to raise those concerns and receive feedback on any action taken.
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures.

These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damage to the environment
- the unauthorised use of public funds
- possible fraud and corruption
(NB. The Council's Anti Fraud and Corruption Policy is also accessible on the Intranet and Extranet)
- sexual or physical abuse of clients
- other unethical conduct

Thus, any serious concerns that you have about any aspects of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Code.

This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
- or
- is against the Council's Constitution and policies;
- or
- falls below established standards of practice;
- or
- amounts to improper conduct.

3. Safeguards

The Council is committed to good practice and high standards and wants to be supportive of employees.

The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement is made in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

The Council will not tolerate any harassment or victimisation [including informal pressures] and will take appropriate action to protect you when you raise a concern in good faith. This action will depend on the type of concern and specific service arrangements. On very rare occasions, you may be asked whether you would be prepared to obtain further information.

This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly. At the appropriate time, however, you may need to come forward as a witness.

5. Anonymous allegations

This Code encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion, the facts to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

6. Untrue allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. How to raise a concern

As a first step, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that senior management is involved, you should approach the Chief Executive, the Corporate Director of Resources or Head of Legal and Democratic Services.

Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern [giving relevant dates];
- the reason why you are particularly concerned about the situation.

The earlier you express the concern the easier it is to take action.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

Advice/guidance on how to pursue matters of concern may be obtained from:

Head of Human Resources and Organisational Development
Litigation Manager (Deputy Monitoring Officer)
Democratic Services Manager
Manager of Internal Audit and Risk

Alternatively, you may wish to seek advice from a person independent of the County Council. In this case you should contact the County Council's External Auditors, the Audit Commission:

Catherine Banks

☎ 0191 383 6410

Lynn Snowball

☎ 0191 460 2022

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two [or more] of you who have had the same experience or concerns.

You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

8. How the Council will respond

The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process;
- be referred to the police;
- be referred to the external auditor;
- form the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures [for example, child protection or discrimination issues] will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days of a concern being raised, the person with whom you have raised your concerns will write to you:

- acknowledging that the concern has been received;
- indicating how we propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms; and
- telling you whether further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the confidential reporting process, specific procedures will need to be applied.

Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the Head of Legal and Democratic Services, for a decision to be made as to whether such a course of action is both necessary and proportionate.

Important:

Managers must not, under any circumstances, ask an individual to obtain further information covertly, from another person, without following this procedure. Failure to do so may infringe Human Rights and render the Council liable to legal action.

Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

9. The Responsible Officer

Corporate Directors and their senior staff who receive concerns will copy the initial complaint to the Head of Legal and Democratic Services, and keep that officer informed of the progress and outcome of the investigation. The Head of Legal and Democratic Services has overall responsibility for the maintenance and operation of the Code. That officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

10. How the matter can be taken further

This Code is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- Catherine Banks ☎ 0191 383 6410 and Lynn Snowball, ☎ 0191 460 2022, from the County Council's External Auditors, the Audit Commission
- you local Citizens' Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

11. Review of the policy

The Strategic Human Resources Policy Team will keep the operation under review and will make such changes to the policy as deemed appropriate following necessary consultation with the trade unions.

12. Equality and Diversity

The Council's Mission is "to make County Durham the best place to live, work and bring up a family". One of the primary values that underpins everything we do while working towards this statement is that we promote equality of opportunity. This applies both in the delivery of our services in relation to our employment practices. We are committed to including equalities in everything we do. This includes the elimination of unlawful discrimination promoting diversity as a positive force and valuing & celebrating our diverse workforce and community.

If necessary, an equality impact assessment will be carried out in the preparation of this policy and the assessment will be reviewed on an ongoing basis.

13. Alternative formats

If you need this information summarised in another language or format such as Braille or talking tape, please call the number below.

إذا اردت معرفت ملخص هذه المعلومات باللغة العربية اتصل على الرقم التالي
Arabic

আকারে এই তথ্যটি পেতে নিচের নম্বরে ফোন করুন:
Bengali

假如您需要這份資料的中文摘要，請致電下面的號碼。
Chinese

اگر آپ کو یہ معلومات اردو میں درکار ہیں تو اس نمبر پر کال کیجیے۔
Urdu

Jezeli potrzebujesz streszczenia tych informacji w jezyku polskim zadzwon prosze na ponizszy numer
Polish

नां तुमी हिरु भवतु सा निचेर पंजाबी रिच चाहुंते हे, उा किरपा बॅले रिंते हेते नैघर ते संपतक बरें ।
Punjabi

यदि आप यह जानकारी का संक्षेप हिन्दी में चाहते हैं, तो कृपया निचे दिए हुए नम्बर में सम्पर्क करें ।
Hindi



(0191) 383 4203

14. Confidential Reporting Code

The Confidential Reporting Code aims to encourage and enable employees to raise serious concerns within the Council rather than ignore a problem or malpractice or 'blowing the whistle' outside.

This Code covers concerns outside of the following areas and does not replace the following procedures.

1. County Council's complaints procedure

Complaint by an individual customer or group of customers about the standard of service, actions or lack of actions by the Council. Handling of the complaint is, in the first instance, the responsibility of the Service concerned.

2. Financial Procedure Rules

Corporate Directors who become aware of any financial irregularities or suspected irregularities shall immediately notify the Corporate Director of Resources.

3. Arrestable offences

In any case where a Corporate Director has reason to believe that an employee of the County Council may have committed, in the course of their duties, an arrestable offence, the Head of Legal and Democratic Services or representative must be informed and where it is considered an arrestable offence has occurred, the Head of Legal and Democratic Services will inform the police.

4. Grievance procedure

A grievance can relate to any aspect of employment which affects the employee personally and which is not reserved to be dealt with under any other established procedures excepting the following :- disciplinary matters, matters relating to deductions from pay, grading matters, redundancy and recruitment issues.

The matter should first be raised with the employee's line manager, reference made to a 'grievance officer', discussion with the Corporate Director and ultimately consideration by the County Council's Appeals and Complaints Committee.

All concerns applicable under this Confidential Reporting Code should be raised with the person's immediate manager or supervisor. If the concern relates to their immediate manager then the concern should be raised with the next appropriate senior manager. Advice/guidance on who is the next appropriate manager can be sought from the four internal officers named in the Code.

Concerns regarding senior officers within the County Council should be referred to the Chief Executive, the Corporate Director of Resources and the Head of Legal and Democratic Services.

Although concerns may be raised verbally or in writing (a suggested format for making a written report is included in the Code) a log of the nature and number of concerns arising within the Council is held by the Head of Legal and Democratic Services.

The person to whom the concern is raised should complete the attached form and forward to the Democratic Services Manager.

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15. Confidential Reporting Code Form

PRIVATE AND CONFIDENTIAL



CONFIDENTIAL REPORTING CODE

**To be completed by person to whom the concern is raised.
To be forwarded to Democratic Services Manager.**

Name of person : Post Held :
raising concern (may be anonymous)

Brief outline of nature of concern and dates :
.....
.....
.....
.....
.....
.....

Names of others involved :
.....
.....
.....
.....

Brief description of outcome, with dates :
.....
.....
.....
.....
.....

Signature :
(of person to whom complaint is raised)

Please Print Name :

Date :

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The Councillor Compact

What is the Councillor Compact?

1. Councillors are subjected to many pressures and conflicting demands on their time. The councillor compact aims to bring some clarity about your role as a councillor, how you perform your duties, and your approach to exercising those responsibilities. Just as importantly, it contains a commitment about the support; advice and guidance that will be provided to you by the council to help you effectively fulfil that role.
2. **This Compact:**
 - a) Defines the role of the councillor and performance standards, amongst other matters;
 - b) Sets out the council's expectations of you in your role, encouraging basic minimum standards of activity in each of the dimensions and functions of the role; combining specific tasks with suggested approaches, skills and behaviours;
 - c) Sets out the council's commitment to provide minimum levels of support and training for members;
 - d) Is underpinned by a number of protocols and agreements, some of which form part of the council's constitution, which include (this list is not exhaustive):
 - The Protocol on Councillor/Staff Relations (see paragraph 24 below)
 - Member Role Descriptions (including competencies and skill sets)
 - Members' Code of Conduct
 - Planning Code of Conduct
 - Local Member Consultative Charter
 - Protocols/Agreements in relation to the use of ICT and other equipment
 - The County Durham Compact (which governs the relationship between Local Authorities/NHS with the Voluntary Sector in County Durham)

The Role of the Elected Member

3. Being elected as a councillor to represent the people who live and work in your area is a tremendous privilege. Councillors sit at the heart of their communities and have a key role in shaping communities. Being a councillor is a demanding role, so it helps if you are passionate about your area and working in the best interests of local people. The constitution of the council sets out in detail the various roles of councillors (i.e. cabinet members, chairs of committees, etc.), and the expectations of you in exercising those responsibilities. However, the following sections set out in more general terms what you may expect in undertaking the exciting and important role you are about to embark upon.

Frontline (Ward) Councillor Roles

4. “Ward Councillors and Community Leadership” (2007) – a report by the Joseph Rowntree Foundation (an independent organisation, working in partnership with all sectors to reduce poverty, empower people to take control of their own lives and to help build strong and cohesive communities) identified six key frontline (ward) councillor roles. All councillors, whether executive and non-executive, will undertake these roles as part of their frontline duties. The roles are:
 - a) **Political representative:** the ability to connect with all parts of the community, to represent everyone fairly and to balance local concerns with the demands of your political group manifesto. This will also include teamwork, close liaison, joint working and the sharing of responsibilities with your fellow councillor within multi-area wards, regardless of political affiliation.
 - b) **Community advocate:** be a skilled advocate for people from different backgrounds, cultures, and values; have the confidence to speak freely and challenge the executive. A good working knowledge, understanding of, and commitment to equalities and diversity issues will be essential for this role.
 - c) **Community leader:** exercise community development skills – support local projects and initiatives, educate people about local participation and involve them in policy development, service planning and decision-making; be a good communicator – explain what political decisions and structures mean to constituents and community organisations; be sensitive to difference and issues of diversity and equality; have knowledge and skills to engage people in a variety of ways (not just meetings); be a conflict broker. Work with all groups in your locality to build community cohesion.

- d) **Service transformer:** understand the complex business of local government and services provided both by the council and others; have the confidence and ability to hold service providers to account for performance/delivery (including developing local area charters or mini-local area agreements); be able to work in partnership with a range of agencies and interests (including town and parish councils); have the ability to understand local problems and use this knowledge locally and strategically in local action planning; setting and monitoring service standards. As part of this role you may be required to work closely with the voluntary sector and/or lead community groups linked to specific projects. In so doing, there will be an expectation that you are familiar with and have regard to the County Durham Compact with the Voluntary Sector.
- e) **Place shaper:** be a local figurehead/role-model that people feel they can turn to; be able to shape the very local environment – provide direction, have the ability to identify priorities, work with officers and service providers to address public realm problems and to promote the Council’s vision for sustainable communities; manage delegated locality budgets.
- f) **Knowledge champion:** be the primary source of local intelligence flowing between the community and the council – i.e. from local surgeries and meetings, letters/e-mails, ‘phone calls etc., involving local stakeholders; have the skills to collect and analyse local information and use it to benefit the community.

Other Key Roles for Councillors

5. Although the frontline (ward) councillor roles outlined above reflect the increasingly important responsibilities of councillors as “place-shapers” for their areas, you will also have other duties and responsibilities as a councillor which you will be required to undertake and actively and regularly participate in. Whilst the following list is not exhaustive, it can include:

- a) **Acting as a member of the Executive:** Being selected as a member of the executive (cabinet) brings with it a significant workload and specific responsibility for an area (or areas) of service provision and policy formulation and development – this will require a considerable commitment if you undertake this role.

As a member of the executive you will be expected collectively to take key decisions and also to exercise specific responsibility in those areas where executive powers may have been delegated to you. This will mean you will have a high profile role and all that comes with it in terms of responsibility and media exposure.

You will need on occasions to take tough decisions on competing priorities; to provide leadership and direction; to challenge directors on their performance; develop with partners a clear vision for County Durham and a sustainable community strategy; and champion the County both regionally and nationally. At the same time you will need to ensure proper support for frontline (ward) councillors and be sensitive to local issues they raise. The duties of a cabinet member are set out in more detail in the role descriptions.

- b) **Acting as a Non-Executive Member:** The non-executive (overview and scrutiny) councillor role is just as important as that of the executive member and can be just as demanding. The key roles of the non-executive member are to influence and comment upon policy development in the council (this is the overview element); to scrutinise decisions taken by the executive (including call-ins) and to undertake scrutiny investigations into specific areas of council activity, or those of other bodies (i.e. Local Area Agreement partners), particularly performance in relation to local improvement targets. The role descriptions set out in more detail precisely what is expected of you, including member leadership of the overview and scrutiny process.

Whilst overview and scrutiny should be robust and challenging (acting as a critical friend to the council and its partners); for it to be respected (and, as importantly, to be effective) it is essential that it operates in a non-partisan, non-political way in line with government guidance. You will be expected to adopt this approach in the exercise of your duties as a non-executive member.

- c) **Acting as a Member of a Regulatory Committee:** As a member of a regulatory committee, you will be expected to participate and make decisions about issues such as planning, licensing and registration, and rights of way. As some of the decisions will be quasi-judicial in nature, you must undertake appropriate training (including regular refresher training) about the issues **before** you can make decisions. This is to protect both yourself and also the council from any potential costly legal challenge. Your role in some of the processes associated with these decision making committees also requires that you should be aware of and must abide by the code of conduct for members which is contained in the constitution of the council and, in relation to planning matters, the relevant planning code of conduct.
- d) **Partnership Working and Representing the Council on Other Bodies:** As part of your role, you may be asked to represent the council on outside partner bodies and agencies. To ensure that you are able to effectively represent the council and perform your role effectively, it will be necessary to familiarise yourself with the functions of the relevant bodies; to regularly attend and participate in meetings of those organisations; and, where necessary, to report back to the council about issues which require action or on which the council needs to be updated.

What the Council will do to ensure Councillors are Effective in their Role

6. **Defining the role:** The Council has established role descriptions which provide a clear-cut definition of councillor roles and reflect the competencies and skill sets necessary.
7. **Skills, learning and development:** Aligned to the role descriptions - all councillors will have a personal development plan linked to the competencies and skill sets required to perform their role. A Councillor Profile and Needs Analysis will be undertaken with all councillors to assist in this process.
8. Councillors will be offered opportunities to undertake more personalised and flexible training that takes into account specific local challenges, such as dealing with community conflict, understanding equalities and diversity, community cohesion issues, or new approaches to community engagement, including social networking. As regards equalities and diversity, the council (in its role as an employer and also a deliverer of services), has positive duties under the Race Relations (Amendment) Act, the Disability Discrimination Act and the Equality Act. The council is also required to comply with the Human Rights Act and other equality legislation in relation to race, gender, disability, age, sexual orientation and religion or belief. It is essential that councillors have an understanding of equalities and diversity issues and training will be offered to you in these areas which you must undertake. This will be particularly relevant in relation to your involvement in any council (or partnership body) officer appointments, or appeals regarding discrimination or harassment issues, where you must have undertaken equalities and diversity training **before** you can make decisions in these areas. Similarly there is a requirement for you to have undertaken Corporate Parenting training in order for you to carry out your role as a Corporate Parent.
9. Training will be more flexible to reflect the time pressures which councillors face, and will also be offered as “refresher” and “ongoing”. It will include opportunities for councillors to undertake validated skills training via models of accreditation and more formal course-based qualifications. When councillors have given a commitment to attend a training course or conference (which often has cost implications), there will be an expectation that they attend the course or conference, other than because of exceptional circumstances.
10. Where councillors attend conferences as part of their development, it will be a requirement that conference documentation and, where appropriate, feedback, is provided to other councillors to allow information to be cascaded to other members.

11. There will be particular challenges for councillors in the early days of the new authority. For those members elected to the new council who were previously District/Borough councillors, it will be important to provide opportunities for learning about those functions previously undertaken by the County Council; likewise, former County councillors will need to have opportunities to “skill up” about functions previously undertaken by District councils. There will also be a number of councillors who will be entirely new to the role and, for these, a full induction with supporting documentation will be offered.
12. Member development will also be supported by partnering opportunities for members with mentors, either within or outside the Council. This will also include opportunities for non-executive members to shadow executive members and vice-versa.
13. Arrangements will be made for a directory of services and relevant officer contacts in the new authority to be provided for all members to better assist them in undertaking their role.
14. **Information:** Councillors will be provided with access to high quality intelligence about council business, service performance and local issues in order to make more informed decisions. This will include information and consultation by officers about what is happening within member localities in line with the councillor consultative charter which forms part of the constitution.
15. The Council will resource and more proactively promote the role of the councillor and the activities of elected members through use of media and communications resources to work to build positive relations with the local media; it will support members with websites, newsletters, texting, blogs and other publicity. This will not extend to activities which are considered political (in line with government guidance), but surgery support and case work support will always be considered legitimate. This will also include improved mechanisms for publicising and communicating decisions made by the council (including web-casts).
16. Councillors will also be provided with tools (i.e. e-mail addresses, mobile computing/telephony/webcams, printers, faxes etc.) which will enable members to make more active use of digital and social networking technologies.
17. Direct contact between councillors and the public will be provided through the identification and provision of venues where councillors can meet constituents face to face and which place councillors at the heart of well-supported area and neighbourhood based structures.
18. **Officer support:** Officer Support is essential in enabling councillors to respond rapidly to community concerns and to deal with service improvement. The level of officer support provided to members will reflect the importance the Council gives to this issue.

19. The support provided will include administrative back-up, including - access to paperwork for meetings, diary management; arrangements and publicity for surgeries; support with casework, including nominated officers to assist with complaints and petitions (community calls for action); and engagement with communities (both geographical, and communities of interest, including young people); research support for ward work; and support/training to use ICT. Members undertaking specific roles (i.e. executive and non-executive) will also require specific officer support.
20. **Remuneration and Support to enhance Participation:** In recognition of the key roles that councillors undertake and to support members who work either full-time or part-time, or who have dependents, the Council will implement a scheme of remuneration and associated support for councillors to ensure that as many people as possible can participate in local representative democracy. This will extend to the offer of assessments by trained officers about the specific needs of members who consider themselves as having a disability and the provision of facilities within council premises and for members individually to ensure that councillors with disabilities are not prevented from undertaking their role because of access or mobility related barriers. Likewise, appropriate support will be given to members who may be affected by barriers arising from their ethnicity, age, faith, gender or sexual orientation. Support will also extend to arrangements for child and dependent care cover.
21. The Council will actively liaise with local employers to ensure that awareness of the councillor role is raised and that employers duties in relation to time-off for councillors to undertake their work is recognised (including the development of a financial compensation scheme to be administered by the Council to allow small businesses to claim a flat rate for absences arising from councillor duties).
22. The council will adopt modern business and meeting processes which seek to remove potential barriers to participation including meeting times which are accessible to both councillors and the public; are welcoming and inclusive; are chaired efficiently (it will be expected that existing, as well as new members, undertake relevant training in this area) and have agreed maximum lengths; make use of modern technology to enable involvement in meetings without the need to attend in person (i.e. video-conferencing); and have paperwork (or e-documents) that are concise, focused and provided in sufficient time for reading.
23. **Making a difference in local communities:** For councillors to be able to make a difference in their local communities and act as place-shapers, it is important that they have access to resources. The Council will provide a specific sum of funding per councillor, per year which may be spent, at the discretion of the councillor (subject to any guidance, criteria, or protocols which will govern its use) on specific projects within each councillor's area.

Councillor/Staff Relations

24. The relationship between councillors and staff employed by the Council is vitally important in delivering high quality services to the people of County Durham. A detailed protocol setting out how that relationship will work in practice forms a separate part of the Council's Constitution. However, some of key principles are set out below to inform councillors and for the avoidance of doubt:
- both councillors and officers serve local people but each have distinct roles
 - the best service will be provided to local people by councillors and staff working as one team
 - the service given to local people must be efficient, open and accountable
 - both councillors and staff have a duty to act in accordance with the Council's ethical standards
 - staff serve the Council as a whole but this service is expressed through the staff management structure
 - the political impartiality of staff must be maintained
 - effective working relationships between councillors and staff must be based on trust and mutual respect
25. Councillors are elected by local people and are democratically accountable to those people. They set the policy framework and budget in full Council and the Executive (Cabinet) take key decisions within the policy framework and budget. Councillors hold decision takers to account through the work of overview and scrutiny committees. Most councillors also belong to political groups which may meet together to consider issues before the council takes a decisions.
26. Councillors do not have responsibility for day to day management of staff or delivery of services or are able to give orders to staff. Nor should councillors use their influence to secure for themselves or any other person improper advantage or disadvantage from the council or its partners. Councillors should not lobby on behalf of any individual seeking employment with the council.

27. Staff serve the council as a whole and support councillors in their roles. They use their professional expertise and best judgement to advise councillors on how to achieve their objectives and should be free to do so without pressure from councillors, either individually or collectively. Staff implement lawful decisions of the council; ensure members are kept up to date with legislation or other external influences on the council. They manage the resources of the council and may propose new policies or changes to existing policies where they consider these may improve the council's performance and/or delivery of services to local people. Staff take day to day managerial and operational decisions within the council and may liaise with staff in other authorities or agencies to share best practice and co-operate where necessary to achieve the council's objectives. Some staff have particular responsibilities as defined in the constitution and must be permitted to perform these roles in accordance with their own judgement and without fear or favour.
27. Staff must not allow their personal or political opinions to interfere with the exercise of their responsibilities to the council. They will not treat any individual councillor or groups of councillors less favourably than any other, but provide the same level of service to all councillors, consistent with the demands of the councillor's roles within the council and their workloads.

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Protocol for responding to Petitions

Petitions may initially have been presented at a Council meeting or may have been received by Cabinet Portfolio holders, Committee Chairs, Local Members or Corporate Directors.

Thereafter the Overview and Scrutiny Management Board will act as a filter to ensure appropriate action is taken in respect of each petition.

The Head of Legal and Democratic Services will acknowledge receipt of the petition and arrange for its submission to the Overview and Scrutiny Management Board with a supporting statement as to whether it is admissible or whether it should be rejected on the grounds that:

- It is not about a matter for which the Council has a responsibility or which affects the County
- Is defamatory, frivolous or offensive
- Is substantially the same as a petition which has been put to a meeting of the Council/O&S in the past 6 months
- The subject matter is or has been the subject of a formal or statutory consultation process.

Overview and Scrutiny (via Chairs' consultation) will consider whether the petition merits further action and if so will arrange to refer it to the relevant decision making body for attention.

The relevant Committee administrator (Overview and Scrutiny Management Board) will be responsible for notifying the petitioner either that their petition has been rejected with an explanation as to why – or that the petition has been referred to the relevant decision making body for consideration and will feature on the Agenda on a certain date. Petitioners should be advised of their right to attend and address the meeting.

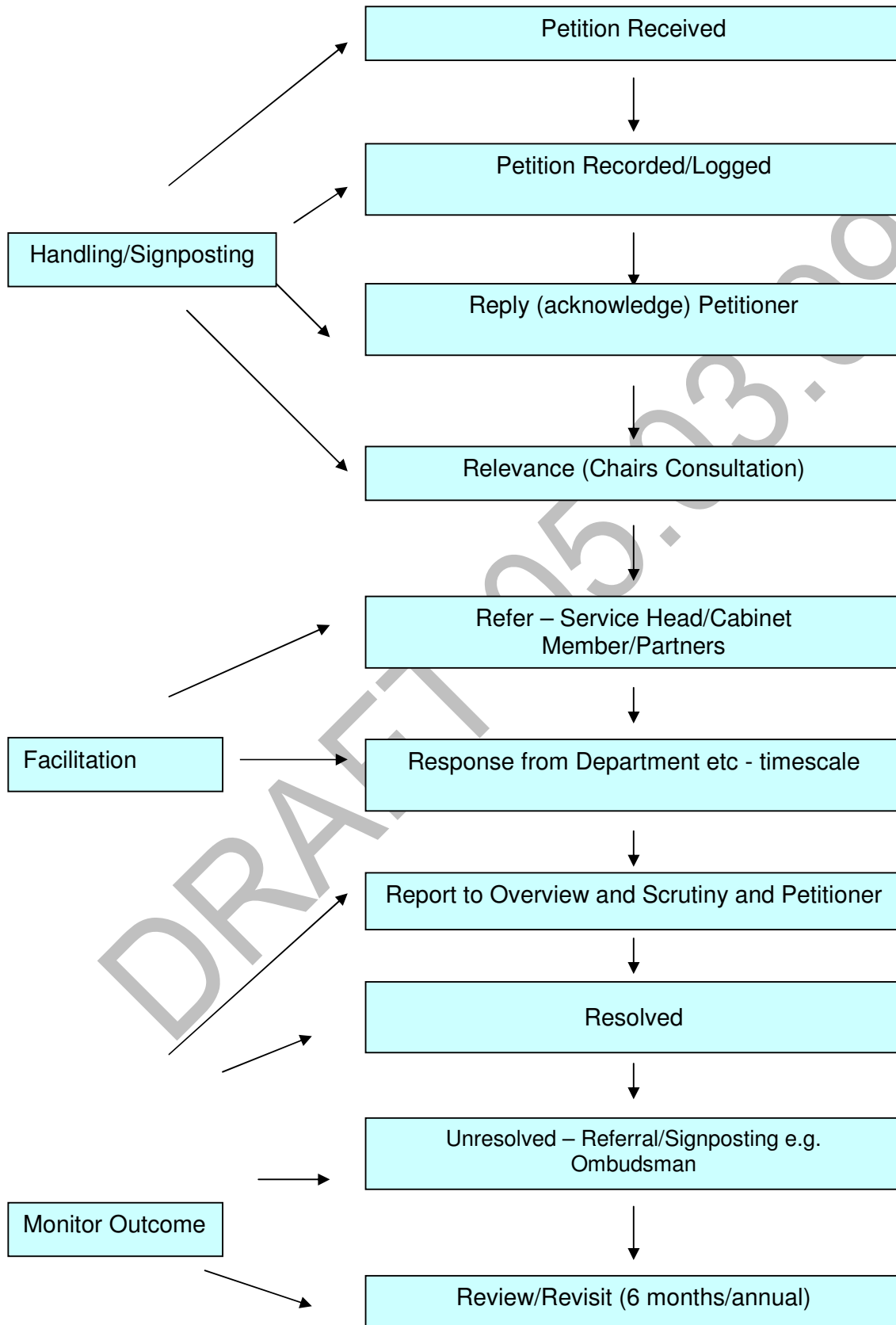
The outcome of the deliberations will be notified to the Petitioner and if necessary regular progress reports (every 20 working days) should be provided until a conclusion is reached in the matter under consideration.

At this stage feedback on the outcome will also be reported to Overview and Scrutiny.

A diagram of the process is attached.

The Protocol along with guidance documentation and templates for public petitions will be widely publicised and available to encourage public involvement/engagement in the process.

Overview and Scrutiny - The 10 'Rs of Petitions



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Part 8

Members' Interests

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Members' Interests

The Register of Interests of Members and Co-opted Members of the Council is required under Section 81(1) of the Local Government Act 2000.

Notification must be given of the following financial and other interests:

- personal employment/business
- contributions towards elections and other Council-related expenses
- beneficial interests in corporate bodies within the County
- any contracts with the Council for goods, services or works
- beneficial interests in any land or property within the County
- tenancy agreements with the Council
- licences to occupy land within the County
- memberships of other organisations, including charitable bodies
- memberships of organisations whose principal purposes include the influence of public opinion or policy
- membership of a trade union or professional association.
- details of Gifts/Hospitality with an estimated value of £25 or more.

The Register is available for public inspection in Corporate Resources at County Hall during normal office hours.

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Part 9

Member Role Descriptions

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MEMBER ROLE DESCRIPTIONS

Frontline Councillor

Community leadership roles

As the democratically mandated local community leader, Frontline Councillors will engage different communities and bring local interests together to help resolve issues and shape future provision. In particular they will:

- be recognised as a local community champion and leader for the area, helping to provide direction, resolve local concerns and reconcile competing views and interests;
- encourage the involvement of local people in policy development, service planning and decision-making;
- be key members of any future action partnership;
- be responsible for the spending of budgets devolved for dealing with local matters and targeting resources effectively;
- promote effective relationships with public, private, voluntary and community organisations in their area;
- be the Council's link with existing town and parish councils and play a key role in supporting local campaigns or groups looking to establish new town and parish councils in their area;
- assist in brokering local agreements such as the local area charter or mini-LAA in which 'added value' service provision could be negotiated and agreed with service providers;
- monitor the performance of local public services in their area, hold poor performers to account and help plan improvements to local services;
- promote both the principles and practices of community cohesion, social inclusion and equality and diversity;
- keep in touch with constituents, through regular surgeries, meetings, phone, letter, e-mail and personal contact so as to know and understand their views and concerns;
- speak freely in support of their area in order to influence Council decision-making, including the consideration of issues such as planning and licensing;
- promote and contribute to the Council's vision for sustainable communities.

Corporate roles

As a member of the Full Council, the Frontline Councillor has a significant role to play, for example:

- agreeing the Council's overall mission, strategic aims, objectives and priorities;
- deciding on revenue and capital budgets and council tax levels;
- agreeing and reviewing the Council's Constitution;
- appointing committees and sub-committees;
- being involved in appointing the Council's Head of Paid Service (Chief Executive);
- promoting and preserving the integrity of the Council;
- representing the Council on other bodies;
- making, amending and revoking bylaws;
- making sure the Council meets its obligations as a corporate parent.

Frontline Councillors, will together be a key component in delivering the Council's regulatory responsibilities for such matters as highways, licensing and planning. In so doing they will:

- act fairly and judiciously;
- act in accordance with all relevant legislation;
- make reasonable decisions based on relevant matters, excluding irrelevant matters;
- ensure that local views and perspectives from area action partnerships and local town and parish councils were brought to the table;
- ensure proceedings were carried out in an open and transparent way.

As a member of the Council's Overview and Scrutiny Committees, the Frontline Councillor will:

- play a major role in policy development and review;
- question the Executive's actions, decisions and assess the performance of the Council. Scrutiny members should use performance information to hold the Executive to account, allowing performance to be assessed from the perspective of customers and citizens;
- scrutinise the effectiveness and performance of partnerships e.g. CDRP, and partner organisations e.g. NHS in delivering measurable outcomes within the context of the County Durham Strategic Partnership and Local Area Agreement;
- scrutinise the performance as appropriate of the third sector (voluntary and community) as a service provider;
- respond to community calls for action where required;
- contribute to regional scrutiny arrangements as appropriate, such as NHS, regional agencies

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- **Executive Member**

- As a member of the decision-making Executive, an Executive Councillor will be responsible for making key decisions on a wide range of issues which affect and shape quality of life in the County. In particular they will:
- be a publicly recognisable and accountable 'key decision-maker' with whom the 'buck stops' for Council performance;
- collectively provide strong and fair executive leadership and clear political guidance to other Councillors and Officers;
- develop with partners a clear vision for what County Durham needs and develop policies and take decisions which respond to local peoples' needs and aspirations;
- take tough and strategically driven decisions on competing priorities;
- champion the vision and interests of the council and the County on the regional and national stage;
- be instrumental in building and nurturing local and thematic partnerships, leading and integrating the County Durham Strategic Partnership and Local Area Agreement Executive Board and related thematic partnerships;
- provide leadership and direction within the Council for designated portfolio areas;
- hold senior officers within the Council to account for the performance of services, allowing performance to be assessed from the perspective of customers and citizens;
- develop the financial and investment strategies to fulfil the Council's commitments to the sustainable community strategy for the County, working with partners in the public, business, voluntary and community sectors;
- ensure that there is proper support for Frontline Councillors in their various roles, responding to them when they raise issues and ensuring that their local knowledge is brought to bear when developing policy

Executive Support Member

1. General

The role of Executive Support Member is specifically recognised in the statutory guidance issued by the Government under the Local Government Act 2000 for local authority executive arrangements. That guidance suggests that such a role might help provide an effective link between the Executive and other Members and also an effective developmental role for the Members involved.

2. Specific Responsibilities

- To support the Executive as a whole or an individual Executive Member with his or her portfolio workload, including attending/chairing relevant internal meetings, reading and commenting on papers, research, liaison with relevant service officers, drafting press releases/comment, carrying out interviews and representing the Council on appropriate external groups/meetings.
- To provide a point of liaison between the Executive Member and other Members of the Council
- To lead on specific tasks/projects/reviews
- To attend and speak at Executive meetings (but not to vote or be a substitute or representative of the Executive Member) when their area of responsibility is under consideration
- To contribute to the content of an Executive Member report/response to Scrutiny or the Council
- To attend and speak at Scrutiny meetings with Executive Member or in his or her absence

Chairman of Council

The Chairman of the Council will:

- provide strong, fair and visible civic and ceremonial leadership to the Council and in relation to citizens, stakeholders and partners.
- attend or be represented at such civic and ceremonial functions as the Council or he/she determines appropriate.
- be an ambassador for the Council and the County, both at home and abroad
- promote public involvement in the Council's activities.
- uphold and promote the Council's Constitution and interpret the Constitution when necessary.
- preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
- request such additional meetings of the Council as may be considered necessary or appropriate.
- ensure the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members who are not on the Executive can hold the Executive to account.
- be consulted on any matter in relation to which consultation with the Chairman of the Council is required under the Constitution.
- determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in the Council's Constitution.

Vice-Chairman of Council

The Vice-Chairman of the Council will:

- undertake a full deputising role in the absence of the Chairman
- undertake specific tasks and responsibilities as requested by the Chairman
- share and support in general the full workload range of the Chairman

Leader of the Council

The Leader of the Council will:

- provide strong, fair and visible political leadership and direction to the Council and in relation to citizens, stakeholders and partners in the co-ordination of Council policies, strategies and service delivery.
- lead the Council's efforts to achieve its Mission for County Durham.
- lead in promoting the aims and core values of the Council.
- lead the development of local, regional, national and European policy and strategic partnerships.
- assume overall responsibility for guiding the development and formulation of corporate priorities and strategic policy direction and for presenting those policies to the Council and the wider community, acting as the principal political spokesperson on corporate and strategic issues.
- provide political guidance to the Chief Executive and the Corporate Management Team on the implementation of the Council's priorities and objectives and revenue and capital budgets.
- appoint the Deputy Leader of the Council and other Executive Councillors to form a Cabinet.
- chair and manage the business/work programme of the Cabinet, ensure a coordinated and coherent approach is taken to policy development and the delivery of services and also where relevant, and taking into account any advice from the Chief Executive, the Council's Monitoring Officer or Chief Finance Officer, ensure that proposals are made to the County Council for decision within appropriate timescales, and in accordance with the Budget and Policy Framework of the Council and all legislative and procedural requirements.
- determine the frequency and timing of meetings of the Cabinet and placing items on its agenda as he/she thinks appropriate.
- ensure the development of effective corporate policies reflecting the Council's commitment to continuous improvement and co-ordinate the work of the Cabinet in:
 - developing corporate policies and programmes;
 - delivering high quality services to the people of County Durham;
 - monitoring performance;

- preparing and monitoring revenue and capital budgets;
 - reviewing the effectiveness of the Council's organisation and management processes;
 - developing policies to promote the social, economic and environmental wellbeing of the County.
- delegate executive functions to any individual member of the Cabinet and establish protocols for consultation between Cabinet Members and Officers in such circumstances.
 - ensure that decisions are taken properly, openly and, where appropriate, publicly and that key decisions are properly programmed and subject to effective public consultation.
 - involve local people and communities in the business and activities of the Council as fully as possible.
 - encourage scrutiny of the Council's policies and service delivery and the input to policy by all Councillors.
 - ensure that Members are treated responsibly and responsively in representing their constituents.
 - maintain and promote the highest standards of conduct in the Council's affairs and in the appointment of its staff.
 - chair the Chief Officer Appointments Committee
 - be consulted on any matter in relation to which consultation with the Leader is required under the Constitution.
 - represent the Council at all levels, liaise with government and other relevant agencies where appropriate and act as the principal ambassador for the County Council in advocating and explaining its roles and functions and promoting it as a listening and accessible organisation.
 - consider learning and development needs of all Members and arrange suitable briefing and learning opportunities to take place through appropriate mechanisms.

Deputy Leader of the Council

The Deputy Leader of the Council will:

- undertake a full deputising role in the absence of the Leader.
- undertake portfolio responsibilities of an Executive Councillor as determined by the Leader.
- undertake specific tasks and responsibilities as requested by the Leader.
- work actively with the Leader to co-ordinate the work of the Executive
- share and support in general the full workload range of the Leader.

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Chairman of a Committee

Committee Chairmen will:

- provide leadership and direction for the Committee.
- chair and manage the business of the Committee, ensuring effective engagement by all Committee Members.
- request such additional meetings of the Committee as may be considered necessary or appropriate.
- promote the role of the Committee both within and outside the Council.
- represent the Council and the Committee on relevant external bodies as required.
- guide Members through those functions delegated by the Council to the Committee.
- be consulted on matters of business between meetings.
- ensure that the Committee takes balanced decisions based on all relevant evidence, always with impartiality and fairness.
- ensure, where appropriate, that there is full consultation with and participation by all interested parties on issues to be considered by the Committee.
- ensure that Committee decisions are properly recorded with full justifications.
- liaise and consult with relevant officers wherever appropriate.
- consider learning and development needs of Members and arrange suitable briefing and learning opportunities to take place through appropriate mechanisms.

Vice-Chairman of a Committee

Committee Vice-Chairmen will:

- provide a full deputising role in the absence of the Chairman.
- undertake specific tasks and responsibilities as requested by the Chairman.
- share and support in general the full workload range of the Chairman.
- work actively with the Chairman to co-ordinate the work of the Committee.

Opposition Group Leader

The Leader of an Opposition Group will:

- provide strong, fair and visible leadership and direction to the Group within the Council;
- act as a spokesperson for the Group and as a representative of the Council to external bodies and organisations as appropriate;
- represent the interests of the Group in any discussions with the Leader of the Council, other Group Leaders, other Senior Members of the Council or Senior Officers;
- be responsible for the appointment of Group Members to seats on Council Bodies in accordance with the Council's political balance apportionments;
- comment on, challenge and review the Majority Group's performance in the coordination and implementation of its policies and procedures;
- be the Group's principal consultee on Council business in general and establish and represent the views of the Group on issues of policy and probity;
- with other Group Leaders, work with the Chief Executive and Corporate Directors on relevant corporate matters; and
- support the learning and development needs of all Members of the Group.

Corporate Parenting Panel Members

- to understand, accept and carry out the function of the Corporate Parent as outlined in the DfES guidance “if this were my child”. Specifically:-
 - Accept responsibility for children in the care of Durham County Council.
 - Make their needs a priority.
 - Seek for them same outcomes any good parent would want for their own children.
- to ask appropriate questions to seek reassurance about the safety and wellbeing of such children.
- to ask questions about how well the County looks after these children through membership of formal systems such as Fostering and Adoption Panels.
- to work with officers in assessing the quality of care provided through processes such as Regulation 33 visits alongside independent officers.
- to assess the effectiveness of service delivery through receiving regular reports about a range of provisions as set out in the Corporate Parenting Panel’s Annual Business Plan.
- to promote the role of Corporate Parent amongst other Councillors.
- to raise any concerns about the safety and wellbeing of young people for whom there is a Corporate Parenting responsibility with appropriate officers and/or Chair of Corporate Parenting Panel.
- to work with relevant officers and members in ensuring the effective delivery of the Corporate Parenting Panel business.

Non-Elected Members

A number of Council Bodies have various Non-Elected Members, both with and without voting rights. A brief description of their roles is set out below:

Audit Committee

To help the Audit Committee meet its responsibilities to advise the Council and the Executive on audit, governance and final accounts issues and provide independent assurance over the adequacy of the Council's risk management framework and the associated control environment, the Council appoints Non-Voting Co-opted Members.

Overview and Scrutiny Committee

- (a) Voting Co-opted Members of Overview and Scrutiny (Education Issues) are appointed to represent Church and Parent Governor interests.
- (b) Non-Voting Co-opted Members of Overview and Scrutiny are appointed from a variety of backgrounds to bring an external view to work and represent the views of residents of the County.

Pension Fund Committee

Voting Non-Elected Members are appointed to the Committee to represent the interests of other Statutory and Admitted Bodies who contribute to the Pension Fund as well as the interests of both current and retired employees.

Standards Committee

Independent Members (with no connection to any Elected Members or employees) are appointed to the Committee to help increase public confidence in the Council by promoting high ethical standards. Independent Members also bring a wider perspective from their outside experiences. An Independent Member Chairs the Committee and they also play a prominent role in the assessment and determination of complaints/allegations of misconduct against Elected Members.