

## PART 3 OF THE CONSTITUTION

# The Functions Scheme

## 1. Introduction

References in the Scheme to the *Functions Regulations* are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

## 2. Council Functions and Local Choice Functions

2.1 *Council Functions* are local authority functions which by law cannot be carried out by the *Cabinet*. Local Choice Functions are those which the Council can choose whether the Council Meeting or the Cabinet is responsible. The Council has determined that all Local Choice Functions will be the responsibility of the Council Meeting.

### Council Meeting

The following functions may be exercised by the Council Meeting only:

- Adopting and changing the Constitution
- Approving or adopting the *Policy Framework*, the *Budget*.
- Any application to the Secretary of State in respect of any *Housing Land Transfer*
- Subject to the *Urgency Procedure* in the *Access to Information Rules*, making a decision contrary to the *Policy Framework* or the *Budget*, or part of it
- Appointment of Chair and Vice Chair of the Council
- Appointing the *Leader of the Council*
- Appointment of Independent Persons under the Localism Act
- Setting the Terms of Reference of committees, deciding on their composition and making appointments to them (excluding executive committees)
- Appointing representatives to outside bodies (unless the appointment is an *Executive Function* or has been delegated by the Council)
- Adopting and changing the Petitions Scheme
- Agreeing the *Members Allowance Scheme*
- Changing the name of the area
- Giving someone the title of honorary alderman
- Review of Polling Districts, Polling Places and Polling Stations
- Functions relating to Community Governance Reviews
- Functions relating to the name and status of areas and individuals in Schedule 1 of the *Functions Regulations*
- Byelaw functions in Regulation 2 and Schedule 1 of the *Functions Regulations*
- Power to promote or oppose local or personal bills set out in Regulation 2 and Schedule 1 of the Regulations
- Calculations relating to and setting of Council Tax
- Setting of Council House rent levels
- Duty to designate an *Officer* as the *Head of Paid Service*

- Duty to designate an *Officer* as the *Monitoring Officer* and to provide staff
- Adoption of Members' Code of Conduct
- Adoption of The Statements of Licensing Policy under the Licensing Act 2003
- To resolve whether to issue a casino licence
- The adoption of the Taxi Licencing Policy.

Local Choice Function:

- The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the District – (Local Choice Function)

The following functions are the responsibility of the Council Meeting but have also been delegated to Committees and/or Officers. The Committee or Officer to whom the function has been delegated is stated in brackets after each function.

- Elections functions in Schedule 1 of the *Functions Regulations (Joint Head of Corporate Governance)*
- Power to appoint staff on or above Head of Service level, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) (*Joint Employment and Appeals Committee or NED Employment and Appeals Committee for posts wholly responsible to NEDDC*)
- Duty to make arrangements for the proper administration of financial affairs (*Chief Finance Officer*)
- Power to appoint *Officers* for particular purposes (otherwise called the appointment of proper officers) (*Monitoring Officer*)
- Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments (*Audit and Corporate Governance Scrutiny Committee*)
- Authorisation of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings (*Monitoring Officer / Team Manager (Solicitor)*)
- determine the calendar of meetings annually and make any subsequent amendments throughout the relevant period subject to rule 4.1 of the Council Procedure Rules (*Monitoring Officer*)

Local Choice Functions:

- Determination of an appeal against any decision of the Authority (*Appeals Committee (set up on an ad-hoc basis as necessary)*)
- Any function relating to contaminated land
- The discharge of any function relating to the control of pollution or the management of air quality
- The service of an abatement notice for a statutory nuisance
- Inspections for statutory nuisance
- Investigation of any complaint as to the existence of a statutory nuisance (
- Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land ( *Assistant Director Planning Planning Manager – Development Management, Team Manager (Solicitor)*)
- Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976 (*Senior Managers*)

- Appointing or revoking the appointment of a person to any office or body other than the Council (*Monitoring Officer*)
- Making agreements with other local authorities to let them use *officers (Head of Paid Service/ Directors/ Heads of Service)*

### **Delegation of Responsibility for Council Functions**

The following Committees have been appointed by the Council to exercise Council functions, with the terms of reference set out at **Appendix 1** to this Part.

1. Scrutiny Committees\*
  - Audit and Corporate Governance Scrutiny Committee\*
  - Communities Scrutiny Committee\*
  - Growth Scrutiny Committee\*
  - Organisation Scrutiny Committee\*
2. Planning Committee\*
3. Licensing and Gambling Acts Committee\*
4. General Licensing Committee\*
5. Standards Committee\*
6. Strategic Alliance Joint Committee
7. Joint Employment and Appeals Committee

#### \*Training

\*All members will be required to undertake training in respect of their roles on each of the above Committees.

### **Advisory bodies and working parties**

Advisory bodies or working parties may be established from time to time which include in their membership *Councillors* and/or *Officers* and/or representatives from partner organisations or the local community. Working parties or advisory bodies established under this section will not be constituted as committees and are not authorised to make decisions on behalf of the Council

### **Executive functions**

Any function not specified as a Council or Local Choice function will be an executive function.

The *Cabinet* will have responsibility for all executive functions including:-

- (a) be responsible for strategic and policy co-ordination.
- (b) recommend major new policies (and amendments or revisions of existing policies) to the *Council Meeting* for approval as a part of the *Budget and Policy Framework*

- (c) prepare and agree other policies and strategies for implementation.
- (d) recommend to the *Council Meeting* the annual budget, including the Capital and Revenue Budgets and the level of Council Tax.
- (e) consider, at least annually, the level of reserves, provisions, and balances held by the Council and recommend any changes to the *Council Meeting*.
- (f) make sure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time, including recommending to the *Council Meeting* any changes to policy that will materially reduce or increase the services of the Council or create significant financial commitments in future years.
- (g) take in-year decisions on resources and priorities including the use of reserves together with other stakeholders and partners in the local community, to deliver and implement the *Policy Framework* and *Budget*
- (h) carry out the Council's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- (i) consider and respond to recommendations and reports from *Scrutiny Committees*.
- (j) monitor expenditure on the capital programme.
- (k) approve major service developments or reductions which are *Key Decisions*.
- (l) receive and consider reports from the Audit and Corporate Governance Scrutiny Committee relating to audit (including the Management Letter) and agree any appropriate action.
- (m) consider the reports of external review bodies on key aspects of overall service delivery.
- (n) make sure that the promotion of the rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services.
- (o) carry out the Council's responsibilities for improving the economic, social and environmental well-being of the District and increasing the availability and equality of access to employment.
- (p) review and monitor the Council's strategy and overall implementation on electronic transformation, transformational government, telecommunications, information systems and information technology, making recommendations to the *Council Meeting* as required.
- (q) oversee the provision of all the Council's services other than those functions reserved to the *Council Meeting*.

- (r) secure the management and maintenance of the Council's housing stock.
- (s) manage and maintain the Council's non-housing property portfolio.
- (t) collect the Council Tax, National Non-Domestic Rates, periodic income and sundry debts.
- (u) provide, manage and keep under review the concessionary bus fares scheme.
- (v) carry out the Council's powers for emergency planning and responding to civil emergencies.
- (w) carry out the Council's functions as a local planning authority (except to the extent that those functions are by law the responsibility of the *Council Meeting*), including supplementary planning documents, and designating and altering conservation areas and adopting character statements for them.
- (x) oversee the Council's overall policy on the voluntary and community sector.
- (y) be able to approve the purchase, sale or appropriation of land and buildings where the market value of the transaction is over £50,000 and to approve the leasing (or otherwise) of property where for the length of the lease the annual rental will be over £50,000.
- (z) be able to authorise the making of compulsory purchase and control orders.
- (za) be able to write off debts.
- (zb) be able to write-off stocks, stores and other assets and to write off any losses of money or stores or to settle claims.
- (zc) be able to accept tenders where there is no, or not enough, budgetary provision.
- (zd) receive reports on contract overspends in accordance with limits set out in the *Finance Rules* and agree the action to be taken.
- (ze) be able to give grants or loans to parish/charitable, voluntary bodies or other bodies where permitted by law.
- (zf) promote and develop international exchanges and links with towns and cities in other countries.
- (zg) carry out the powers and duties of the Council under sections 13 and 14 of the Public Order Act 1986.
- (zh) be the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs.
- (zi) confer with other local authorities, government departments, statutory bodies, voluntary bodies, Derbyshire Constabulary or other external agencies in order to discharge the responsibilities vested in the *Cabinet*.

- (zj) resolve disputes between *Cabinet* members about the exercise of their functions.
- (zk) carry out all functions under the Derbyshire Act 1981 and other local acts except those relating to licensing, registration or regulatory functions
- (zl) be able to make decisions where no other tier of government has responsibility or where a policy or strategy does not exist.
- (zm) decide all *Local Choice Functions* set out in section 3 of this Scheme which the *Council Meeting* decides should be undertaken by the *Cabinet*.
- (zn) decide applications for disposal of land under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 and sections 32 and 45 of the Housing Act 1985 for disposal of housing land other than under Right to Buy legislation.
- (zo) implementation of the Health and Safety at Work Act in respect of the Council as an employer and all its operations.
- (zp) appointment, terms of reference and membership of sub-committees to deal with matters within the Executive functions.
- (zq) approval of the level of any fee, charge, rent or other payment due to the Council provided it is within the Policy Framework.
- (zr) monitoring the implementation of the Council's equalities responsibilities.
- (zs) consideration of tenders in excess of the key decision threshold.
- (zt) monitoring the level of homelessness and the Council's responsibilities under the Housing Act 1996.

The *Leader of the Council* has notified the *Monitoring Officer* that the portfolios of individual *Cabinet Members* will be as set out in the *Cabinet Members Portfolio Scheme*.

All the functions listed in this section are reserved to the *Cabinet* unless delegated to *Officers* in Section 7.

## Appendix 1 – Committee Terms of Reference

### 1. Scrutiny Committees

The following *Scrutiny Committees* have been established:

- (i) Growth Scrutiny Committee
- (ii) Communities Scrutiny Committee
- (iii) Organisation Scrutiny Committee
- (iv) Audit and Corporate Governance Scrutiny Committee

With nine Councillors on each Committee.

The *Scrutiny Committees* will follow the *Scrutiny Rules*.

Within their themed areas, all *Scrutiny Committees* will:-

- (i) review decisions made by and the performance of the *Council Meeting*, the *Cabinet*, committees and *Officers* both in relation to individual decisions and over time (but not including *Regulatory Decisions*)
- (ii) review the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) question members of the *Cabinet* and *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 (but not including *Regulatory Decisions*)
- (iv) make recommendations to the *Council Meeting* and/or *Cabinet* arising from work undertaken by a *Scrutiny Committee*
- (v) review the performance of other public bodies in the area and invite reports from them by asking them to address the *Scrutiny Committee* about their activities and performance
- (vi) question and gather evidence from any person with their consent
- (vii) collaborate with other *Scrutiny Committees* and other bodies carrying out similar functions outside the Council
- (viii) report to the Council meeting annually on the scrutiny function and their work
- (ix) exercise functions relating to call in and Councillor Call for Action.

The committees will have responsibility for scrutiny functions relating to:-

<b>Growth Scrutiny Committee</b>	<b>Communities Scrutiny Committee</b>	<b>Organisation Scrutiny Committee</b>
<ul style="list-style-type: none"> <li>• Local Enterprise Partnership and Combined Authorities</li> <li>• Business/Economy</li> <li>• Economic Development</li> <li>• Regeneration</li> <li>• Asset Management</li> <li>• Planning</li> <li>• Tourism</li> <li>• Partnerships</li> <li>• Strategic Housing – Housing Strategy</li> </ul>	<ul style="list-style-type: none"> <li>• Statutory Crime and Disorder responsibility</li> <li>• Community Safety</li> <li>• Leisure</li> <li>• Health and Well being</li> <li>• Street Scene</li> <li>• Environment Health (including Licensing)</li> <li>• Inclusion</li> <li>• Equality</li> <li>• Housing Management</li> <li>• Emergency planning</li> <li>• Estates and property</li> </ul>	<ul style="list-style-type: none"> <li>• Services:               <ul style="list-style-type: none"> <li>○ Audit</li> <li>○ Communication and Consultation</li> <li>○ Customer Services</li> <li>○ Finance</li> <li>○ Governance</li> <li>○ Human Resources</li> <li>○ ICT</li> <li>○ Legal</li> <li>○ Procurement</li> <li>○ Revenue and Benefits</li> <li>○ Scrutiny</li> <li>○ Strategy and Performance</li> </ul> </li> <li>• Shared Services</li> <li>• Commissioning/De-Commissioning Services</li> <li>• Self Regulation</li> <li>• Transformation Programme</li> <li>• Employees</li> </ul>

<b>Audit and Corporate Governance Scrutiny Committee</b>
<p>The committee will:-</p> <ul style="list-style-type: none"> <li>• consider the Internal Audit 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</li> <li>• consider summaries of specific Internal Audit reports as requested</li> <li>• consider reports dealing with the management and performance of the providers of Internal Audit Services</li> <li>• consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale</li> <li>• consider the External Auditor's Management Letter, relevant reports, and the report to those charged with governance</li> <li>• consider specific reports as agreed with the External Auditor</li> <li>• comment on the scope and depth of external audit work to ensure it gives value for money</li> </ul>



- liaise with the Audit Commission over the appointment of the Council's external auditor
- commission work from Internal and External Audit as necessary
- maintain an overview of the Contract Procedure Rules, and Finance Rules
- review any issue referred to it by a Director, the Monitoring Officer, the Chief Finance Officer or the Council Meeting, a committee or the Cabinet
- monitor the effective development and operation of risk management and corporate governance in the Council
- monitor the Council's anti-fraud and corruption strategy
- oversee the production of the Council's Annual Governance Statement and recommend its adoption
- oversee the Council's arrangements for corporate governance and agree necessary actions to ensure compliance with best practice
- oversee the Council's compliance with its own and other published standards and control
- approve the Council's audited Annual Statement of Accounts
- review the annual statement of accounts, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council Meeting
- consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts

#### Issues falling within the functions of two or more Scrutiny Committees

Any Committee may consider matters that are important to the Health and Well Being of residents within North East Derbyshire.

Where a particular issue could fall within the functions of two or more Scrutiny Committees the Chairs of the relevant Scrutiny Committees, following consultation with the Overview and Scrutiny Manager, will agree which Scrutiny Committee will consider the matter.

#### **Joint scrutiny arrangements**

The Council is part of the Shared Services Joint Scrutiny Committee with Bolsover District and Chesterfield Borough Councils which scrutinises the joint working arrangements across the three Councils.

## **2. Planning Committee**

There will be a *Planning Committee* of 13 *Councillors*.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside Planning Committee Members.

Any substitutions must be notified to the Governance Team by 12 noon on the day of the Committee.

### **The functions of the Planning Committee include:**

- Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Hedgerow and tree preservation functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Rights of Way functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*

### **The following matters may only be determined by the Planning Committee:**

- The determination of all submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority where:
  - (a) In the opinion of the Head of Planning or the Planning Manager the application raises matters which should be determined by the Planning Committee.
  - (b) The application is submitted by or on behalf of the Council for its own development, except for the approval of development to which no objections have been received.
  - (c) A Councillor has notified the Head of Planning / the Planning Manager or the application case officer in writing or by e-mail within 3 weeks of the publication of the weekly list that the application should be determined by the Planning Committee and the notification is supported by one or more planning grounds.
  - (d) A Councillor has notified the Head of Planning, the Planning Manager - Development Management or the application case officer by email before the application has been determined the planning reasons why the application should be determined by Planning Committee, and the Head of Planning or Planning Manager Development Management has agreed with the Planning Committee Chair or Vice Chair that the reasons justify Planning Committee determination.
  - (e) The application is submitted by:
    - i – a serving NEDDC Councillor

- ii – a current NEDDC officer who has any involvement in the determination or advising on planning matters
  - iii – an immediate family member of i or ii
- when the proposal is in accordance with the development plan and there has been no objection from any consultee or member of the public.  
(Immediate family means parent, sibling, spouse/partner and child)
- (a) To consider any objections or other representations made in opposition to the proposed making of a Tree Preservation Order.

### **Delegation of functions to officers**

#### **The following functions may be carried out by the Assistant Director of Planning or the Planning Manager – Development Management**

- All submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority is delegated to the Head of Planning Health / Planning Manager – Development Management / Development Management Team Leader / Planning Policy Team Leader except for the matters reserved to the Planning Committee as set out above.
- Making Tree Preservation Orders (TPO's) except where there are any objections or other representations made in opposition to the proposed making of a TPO.
- Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Hedgerow and tree preservation functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Rights of Way functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Delegation to serve Section 215 Town and County Planning Act notices is further extended to Environmental Health Officers.

### **3 Licensing and Gambling Acts Committee**

There will be a *Licensing and Gambling Acts Committee* of 14 *Councillors* which must meet at least once a year by law.

It is a legislative requirement that the Council maintains a committee that deals solely with matters related to the Licensing Act 2003 and the Gambling Act 2005. These committee functions cannot be combined with any others.

**The functions of the Licensing and Gambling Acts Committee include:**

<b>Functions</b>	<b>Matters Reserved to <i>Council Meeting</i></b>
<p>To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005</p> <p>To recommend to Council statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005</p> <p>To make any minor changes and updates to the Statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements.</p> <p>To recommend to Council to resolve whether to issue a Casino Licence</p>	<p>The following matters are reserved to the <i>Council Meeting</i>:</p> <p>(i) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005</p> <p>(ii) The power to resolved to issue a Casino Licence</p>

#### **3.1 Licensing and Gambling Acts Sub Committee**

Licensing and Gambling Acts Sub Committees will be established comprising three Members who are Members of the Licensing and Gambling Acts Committee to consider any matters referred to them which relate to matters arising under the Licensing Act 2003 or the Gambling Act 2005.

A quorum of three Members of the Sub Committee will be required for the meeting to be held. The Chairman for the meeting will be determined by the Members present at the meeting.

Licensing and Gambling Acts Sub Committees will be arranged by the Monitoring Officer as and when required.

**The functions of the Licensing and Gambling Acts Sub-Committee include:**

- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Licensing Act 2003, including:
  - Application for a personal licence where there are relevant unspent convictions;
  - The review of a premises licence or club premises certificate; other than minor variations
  - Decision to object when the local authority is the consultee and not the relevant authority considering the application;
  - Determination of a police or environmental health objection to a temporary event notice.
- Where a relevant representation has been made in respect of the following applications:
  - personal licence;
  - premises licence or club premises certificate;
  - provisional statement;
  - variation to a premises licence or club premises certificate;
  - variation to a designated personal licence holder;
  - transfer of a premises licence;
  - interim authority.
- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Gambling Act 2005, including:
  - Application for a premises licence where representations have been received and not withdrawn.
  - Application for variation to a licence where representations have been received and not withdrawn.
  - Application for a transfer of a licence where representations have been received from the Gambling Commission.
  - Application for a provisional statement where representations have been received and not withdrawn.
  - Review of a premises licence.

- Application for a club gaming/club machine permits where objections have been received and not withdrawn.
- Cancellation of club gaming/club machine permits.

**Delegation of functions to officers**

The following functions may be exercised the Head of Housing and Community Safety save for the matters reserved for Licensing and Gambling Acts Committee or Sub-Committees, or for Full Council:

- All matters arising under the Licensing Act 2003.
- All matters arising under the Gambling Act 2005.

**4 General Licensing Committee**

There will be a *General Licensing Committee* of 14 *Councillors* which will meet at least once a year.

As a result of the legislative restriction that the Licensing and Gambling Acts Committee can only deal with matters relating to the Licensing Act 2003 and the Gambling Act 2005 the Council will maintain a General Licensing Committee to deal with all other matters relating to licensing.

**The functions of the General Licensing Committee include:**

<b>Functions</b>	<b>Matters Reserved to <i>Council Meeting</i></b>
<p>To consider all licensing matters not covered by the Licensing Act 2003 and the Gambling Act 2005, including Private Hire and Hackney Carriage Drivers, Vehicles and Operators.</p> <p>To recommend to Council any licensing policies except the Licensing Act 2003 and the Gambling Act 2005 policies.</p> <p>To make any minor changes and updates to the Council’s Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy following adoption by Council</p> <p>To make any minor changes and updates to other relevant licensing policies as required</p>	<p>The following matters are reserved to the <i>Council Meeting</i>:</p> <p>(i) Determination of the Council’s Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy</p> <p>(ii) Determination of other licensing policies, as required</p>

#### **4.1 General Licensing Sub Committee**

General Licensing Sub-Committees will be established, comprising three members who are Members of the General Licensing Committee to consider any matters referred to them which relate to:

- (a) matters arising under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Police and Crime Act 2009);
- (b) private hire and/or hackney carriage matters;
- (c) scrap metal sites and operators.

but not at the same meeting.

A quorum of three Members of the Sub Committee will be required for the meeting to be held. The Chairman for the meeting will be determined by the Members present at the meeting.

##### *Schedule of Meetings*

A Schedule of General Licensing Sub-Committee meetings will be agreed by Council at the start of each municipal year. This schedule of meetings will be subject to amendment, as required, to enable the Sub-Committees to deal effectively with the matters referred to them.

The membership of any unscheduled General Licensing Sub-Committee meetings that are arranged will be determined by the Monitoring Officer in consultation with the Chairman of the General Licensing Committee.

##### **The functions of the General Licensing Sub-Committee include:**

- To consider all hackney carriage and private hire licensing issues which are referred to it in accordance with the Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy.
- The determination of applications for sexual establishments (including sexual entertainment venues, sex shops and sex cinemas) under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) where representations have been received and not withdrawn.
- To determine applications for house-to-house collections under the House to House Collections Act 1939 (as amended) where representations are received from Police and not withdrawn or where officers have reasonable grounds for referral to Committee.
- To determine applications and revocations under the Scrap Metal Dealers Act 2013 where representations have been received and not withdrawn

## **Delegation of functions to officers**

The following functions may be exercised the Assistant Director Environmental Health Services, save for the matters reserved for General Licensing Committee or Sub-Committees, or for Full Council:

- All hackney carriage and private hire licensing issues in accordance with the Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy.
- All matters concerning the discharge by the Council of its licensing function under the Local Government (Miscellaneous Provisions) Act 1982 (as amended)
- All matters concerning the discharge by the Council of its licensing function under the House to House Collections Act 1939 (as amended)
- All matters concerning the discharge by the Council of its licensing function under the Scrap Metal Dealers Act 2013
- All other licensing matters delegated from time to time by the General Licensing Committee

## **5. Standards Committee**

There will be a *Standards Committee* of 12 members comprising:-

- (i) Ten *Councillors*
- (ii) Two non-voting *Parish Members* elected by the District's parish and town councils

The Committee will be politically balanced.

### *Independent Persons*

The Council will appoint two Independent Persons who will be consulted by the authority before it makes a finding as to whether a member or co-opted member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member.

They may also be consulted by the Authority in respect of a standards complaint at any other stage and by a member or co-opted member of the District Council or of a parish or town council against whom a complaint has been made.

### **The functions of the Standards Committee include:**

- Advising the Council on the adoption of or revision to the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct and promotion of high standards of conduct by Members and Co-opted Members of the Council.
- Oversee Member Training, (including the attendance of Members at courses), in relation to matters affecting their conduct and probity including relevant information provided to newly affected District Councillors.



- Promote and maintain high standards of conduct within Town/Parish Councils and to assist them in following their own Codes of Conduct or adopt the North East Derbyshire Code of Conduct.
- Oversee training provided to Parish Councils on conduct and probity matters including relevant information provided to newly elected Parish Councillors.
- Oversee the public face of the Standards Committee through the website and increase public awareness of the Code of Conduct and its application.
- Granting dispensations to allow *Councillors* and co-opted members to take part in meetings where they have a disclosable pecuniary interest.
- Receiving regular reports from the Monitoring Officer on the number of complaints against members, how they are progressing, what decisions have been made and what action taken.
- Through the Hearings Sub-Committee, undertaking hearings into complaints which have been investigated and deciding on sanctions where a breach of the Members' Code of Conduct has been found.
- Oversee matters referred to the Monitoring Officer in relation to complaints against Town and Parish Councillors where it is inappropriate for the Monitoring Officer to take a decision.
- Overseeing the whistle blowing policy.
- Overseeing complaints handling and outcomes of Ombudsman investigations.
- Review Members' attendance at meetings on a bi-annual basis.
- Receiving annual reports on gifts and hospitality received by Council members and officers.
- Receiving annual reports on the Council's operation and use of the powers under the Regulation of Investigatory Powers Act 2000 and to approve amendments to the policy as necessary.
- Receive reports of the Independent Remuneration Panel prior to Council submission.
- Undertaking an annual review of the Council's Constitution, making recommendations to the Council meeting.
- Provide an annual written report to Council on the work of the Committee

## 6. **Employment and Appeals Committee**

There will be an Employment and Appeals Committee of four Councillors.

The membership shall comprise the Leader of the Council, the Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group or their appointed substitute. Substitutes if called upon will replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed. The Members shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.

The Employment and Appeals Committee will meet as a Committee in relation to all appointments of the Management Team which includes the Statutory Officers and other Chief Officers/Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).

The Employment and Appeals Committee will have the roles and functions as set out below:

<b>Functions</b>	<b>Matters not delegated</b>
<p>To interview candidates for posts within the Management Team</p> <p>To appoint candidates to posts within the Management Team, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer</p> <p>To recommend to Council the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer</p> <p>To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers</p> <p>To deal with appeals from the Chief Officers/Deputy Chief Officers, including Statutory Officers, against action taken against them</p> <p>In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Employment and Appeals Committee shall make a recommendation to Council which will be supported via a report from two of the Council's Standards Committee Independent Persons</p>	<p>To determine any matter referred to it.</p>

## **7. Council Joint Consultative Group (JCG)**

The role of the Council Joint Consultative Group is to oversee the industrial relations framework of the Council and to provide a method of consultation between management and employee/union representatives on matters affecting employees generally.

### **OBJECTIVES**

To bring together Members, Management and Trade Union representatives to:-

- (a) provide a regular basis of consultation and negotiation on matters of principle relating to employee relations, working and other arrangements and conditions of service affecting employees throughout the Authority which are not reserved for negotiation at national, provincial or other agreed local levels;
- (b) improve service provision and efficiency;
- (c) consider health and safety matters to improve standards of health and safety performance throughout the Authority.

### **FUNCTIONS**

In achieving the above objectives the following specific matters, which affect employees generally, are appropriate for consideration by the Group:-

- (a) operational and policy issues;
- (b) negotiation on local terms and conditions of service with the exception of those affecting a single service;
- (c) issues and proposals to promote equality.

Informal meetings between Management and Employee representatives may be arranged outside of the scheduled Council Joint Consultative Group to consider policy or legal developments which require changes to policies to be made. Such meetings will take place as and when required.

Employee relations and Health and Safety issues within specific services should be raised with the relevant Service managers/Head of Service, and the HR & OD Manager and/or Health and Safety Manager where necessary, to seek a resolution before they are raised at the Council Joint Consultative Group.

### **MEMBERSHIP**

The Group shall include six representatives from Management (Employer Side) including the Leader, Deputy Leader, relevant Portfolio Member, Head of Paid Service, Human Resources Manager or their representative and six representatives of employees (Employees' side).

Both Sides shall appoint their representatives to hold office for one year from the Annual Meeting of the Council. Representatives shall be eligible for re-appointment.

The Employees' Side shall include six representatives from recognised Trade Unions as follows:-

UNISON – 3  
GMB – 1  
UNITE – 2

who shall represent the interests of all the workforce.

Where possible, not more than one person from any Service within the Council shall attend as a Trade Union representative.

Trade Union officials and Service representatives may attend meetings as advisers.

If a representative of either Side is unable to attend a meeting a substitute representative may attend subject to the terms of these Terms of Reference.

The Group shall have power to appoint Sub-Groups as necessary.

## **OFFICERS**

At the first meeting in each municipal year a Chair and Vice Chair shall be appointed from among the Group.

The Chair and Vice Chair shall be from different Sides of the Group and shall alternate each year unless otherwise agreed.

The Secretary for the Group shall be provided from the Governance team.

## **MEETINGS**

There shall be at least four meetings scheduled each municipal year at quarterly intervals.

Additional or Special meetings may be called with the agreement of the Chair at the request of either Side submitted through the Secretary.

If a scheduled meeting cannot take place, due to lack of quorum or a reason other than lack of business, the meeting shall be reconvened

Separate meetings of both Sides shall take place immediately prior to a meeting of the Group.

If there is insufficient business for a meeting it may be cancelled with the agreement of the Chair and Vice Chair.

Three members of each Side shall together constitute a quorum.

Recommendations from the Group shall, wherever possible, be reached by consensus and, where appropriate, the views of both Sides shall be reflected in the Minutes. Where

necessary, the Council may still proceed with the Council's decision making processes in accordance with the Constitution, even if consensus cannot be reached.

Items for inclusion on an agenda shall be provided to the Secretary and exchanged between the two Sides not later than three weeks prior to a meeting. Such items must be specific to facilitate investigations and evaluation prior to a meeting. They must be matters which cannot be settled locally with service management. Items with only subject headings may be deferred if insufficient information has been supplied to allow for proper consideration of the matter. Other business not appearing on the agenda will not be discussed unless the Chair agrees that a matter is urgent, in which case the reasons for urgency will be minuted.

Minutes shall be circulated to the Chair and Vice Chair and then circulated to Members of the Group with the agenda for the next meeting, at which they will be approved and signed by the Chair and Vice Chair.

### **WORKING ARRANGEMENTS**

To manage its work programme and tasks strategically, the Group may appoint managed Sub-Groups with appropriate membership to undertake specific tasks.

These Sub-Groups will report findings back to the Council JCG, who will consider the findings and any recommendations.

### **TIME OFF ARRANGEMENTS**

Employees' Side representatives shall be granted time off work to attend meetings of the Group and reasonable accommodation shall be provided for them to hold pre-meetings.

The six employee representatives shall be entitled to take a maximum of half a day off work (including travelling time) one month before each meeting of the Group to formulate and discuss agenda items.