From mountain to sea

Aberdeenshire
COUNCIL

Scheme of Governance
Part 4B - Policy Development and Review Framework

19 November 2021

Table of Content

Flowchart Appendix 2   17

Visit aberdeenshire.gov.uk

Part 4B - Policy Development & Review Framework

The Policy Development & Review Framework is the process for development, monitoring and formal review of policies within Aberdeenshire and includes provision for consideration of recommendations for the development or review of policies as part of the three stage scrutiny process.

1 OVERVIEW

1.1 Introduction

Based on good practice, self-evaluation and stakeholder feedback, the Policy Framework comprises the overarching principles and procedures used for the development and monitoring and formal review of policy within Aberdeenshire Council.

1.2 Purpose

The Policy Framework seeks to:

- Confirm the principles that guide policy development and review,
- Establish standardised procedures to ensure that policies are developed, approved, monitored and reviewed consistently,
- Provide a comprehensive, single point of reference for information relating to policy development and review.

1.3 Scope of the Framework

The principles and procedures outlined in the Policy Framework relate to the development and review of council policies as well as providing a guiding framework for the development of service or function specific policies.

1.4 Structure of the Framework

The Policy Framework document comprises the principles that underpin the development and review of policies and the key procedural stages (Initiation; Development; Approval; Implementation and Monitoring & Review).

1.5 Policy Definition

The Policy Framework specifically focuses on the development of policies as defined below. For avoidance of doubt definitions are also provided for other related tools such as documents that may be used to support a policy in order to achieve a specific objective in Appendices 1 and 2.

1.5.1 Policy

A policy is a formal, concise, accessible statement on how the council intends to conduct business and deliver services. Generally it will be a statement of intent with rules that influence and enable decision making. A policy statement will lessen the risk of conflict and remove the opportunity for unfair selective application of rules.   A new policy or a revision to a policy must be consulted on in accordance with this framework before being approved by the appropriate policy committee. An example of a simple policy statement is

Confidentiality Policy

It is our policy to keep confidential all personal information about the children, families, staff and volunteers involved in our service.

Personal information about families in relation to Child Protection concerns will be shared on a need to know basis in line with our Child Protection Policy.

1.5.2 Other tools and supporting documents

Regulations are different from policies in that they are created to set a higher degree of compliance. Regulations associated with legislation which is governed by Scottish or UK law are not policies, as they already exist externally and impose an obligation on the council when operating a specific aspect of its business. Any internal regulations developed by the council must be approved by committee and legal advice must be sought. An example of council developed regulations are the council's Financial Regulations.

A simple flowchart has been developed to help officers determine whether they are developing a policy, a regulation, a plan or strategy. This is attached as Appendix 1 to this document.

When developing a policy, officers may create supporting documents that describe in greater detail how the policy will be implemented in practice, such as procedures, guidance or protocols. Policies must be approved by Committee. Supporting guidance may be agreed by Officers without Committee approval.

1.6 Governance and Authority

As stated in 1.5 above, a policy must be approved by Members through the appropriate committee. The Councillors' Code of Conduct published in June 2018 published by the Scottish Government states that the role for Members is to 'determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and Chief Officers to help ensure that the policies of the council are implemented.'

The council's Scheme of Governance confirms the authority of each committee in relation to all policy matters and resource issues. The Scheme of Governance is available here.

Prior to approval at the appropriate policy committee, all new or reviewed policies must be approved by the appropriate Directorate Leadership Team. In addition, corporate policies must be considered and endorsed by Strategic Leadership Team prior to any formal consultation being undertaken.
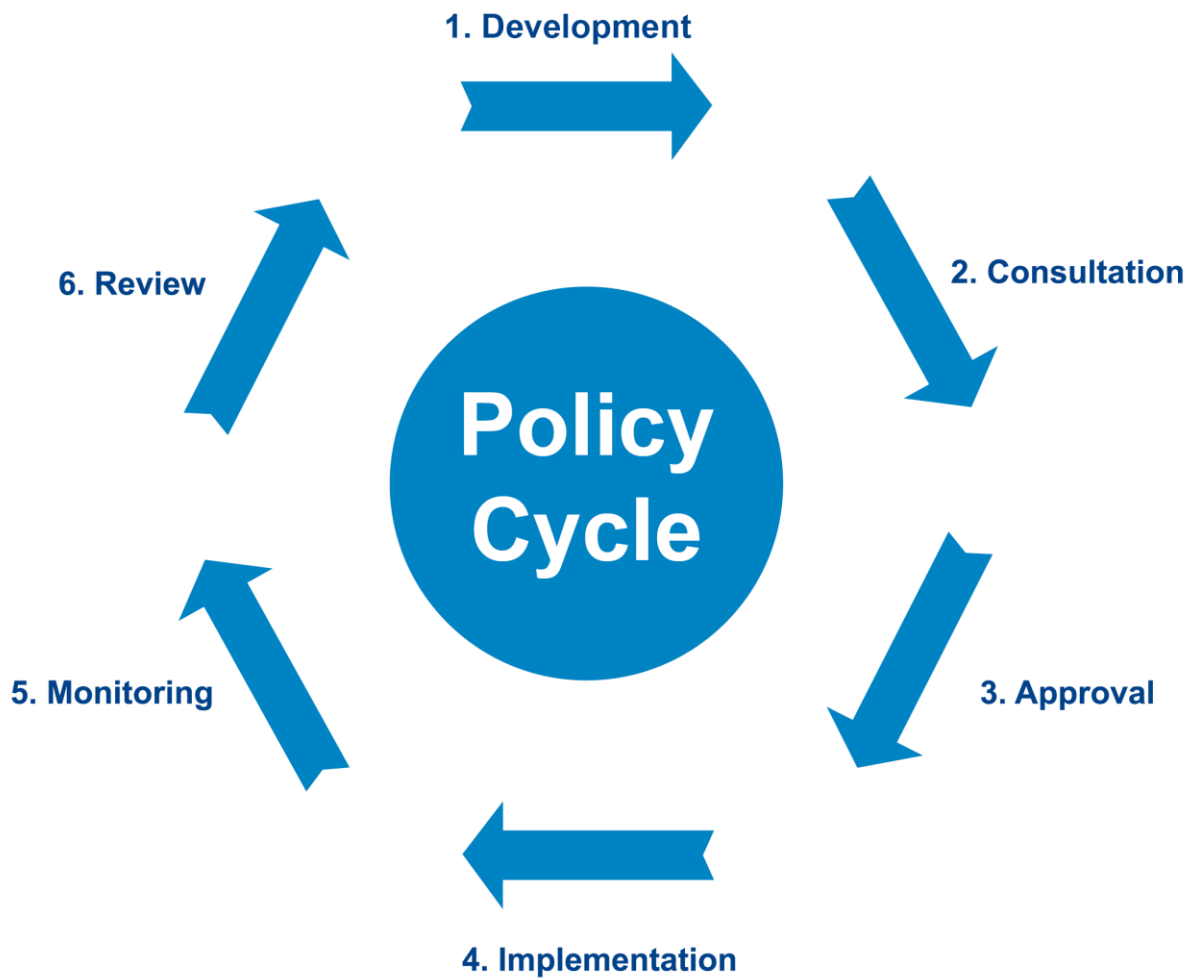
2 PRINCIPLES

Policies developed under the framework should:

- Enable effective delivery of the priorities for the organisation as determined by the Council Plan agreed by Full Council,
- Be consistent with national legislation and institutional statutes, regulations and other policies,
- Be guided by best practice and Best Value,
- Be clear, transparent and easily accessible,
- Be informed by consultation and communication with relevant stakeholders,
- Be monitored and periodically reviewed to ensure relevance and fitness for purpose,
- Ensure the council is contributing to a more equal society through advancing equality and good relations in our day-to-day business and compliance with the Public Sector Equality Duty.

3 PROCESS

The policy development and review process follows a six-stage model (see below). This ensures that the policy cycle is continuous with regular monitoring and review, allowing Aberdeenshire Council to adapt to change. This section outlines each stage of the policy cycle.

It is critical that at each stage of the policy development and review consideration given to equalities.

3.1 Policy development process

3.1.1 Commissioning stage

Policy development may be commissioned or initiated by policy committees, Chief Officers or Service Managers. A policy review may be initiated as a result of a national initiative or new legislation – see 3.6 below. An area or policy committee may recommend a policy is developed as a result of scrutiny undertaken. A policy committee may also request the development of a specific policy following the annual review of their policy framework.

Any council officer may also recommend a proposal for further investigation to their line manager or Head of Service. In most cases an officer will be identified as the 'policy sponsor' and will oversee the development of the policy. They may identify a responsible officer or working group to undertake the policy development.

Irrespective of how a policy idea is commissioned, time must be spent during this stage in dialogue with the appropriate policy chair/vice-chair to secure agreement for the policy to come to committee. Further political discussion may be required

It must be evident at the commissioning stage how the policy is directly supporting the priorities of the Council as determined by the Council Plan.

3.1.2 Categorisation within the policy framework

All policies must align to a policy committee and the functions delegated to that committee in line with the **List of Committee Powers** (Part 2A of the Scheme of Governance).

A policy should be aligned to one policy committee only and approved by that policy committee. If a policy applies to more than one service, such as a corporate policy, it must include specific provisions for each service or note any exceptions/additions within any supporting tools or documents. This is also the case for policies which apply council-wide but have specific implications for individual services.

Where a policy is relevant to areas of service that are equally the responsibility of more than one Policy committee, all relevant committees must approve the policy. In the event that committees cannot reach agreement the matter shall be referred by the relevant Director or their nominee to Full Council for determination in accordance with Part 2A of the Scheme of Governance.

3.1.3 Statutory policies and regulations

Where there is a statutory requirement to deliver a service or operate in a specific way **and** the council has no ability to deviate from the statutory direction, organisational procedures or other appropriate tool or document should be developed rather than a policy. The appropriate committee should be made aware of the legislation through a report or briefing.

3.1.4 Policy research

In order to establish precedent and inform the policy process, research must be conducted into existing internal policies or similar external examples. This ensures that problems can be identified early on in the process and improve the quality of the final document.

Officers must ensure that the research includes consideration of overarching principles for the council such as Town Centre First Principle, Sustainability and the Carbon Budget and the medium Term Financial Strategy to ensure the policy being developed or reviewed is not detrimentally impacting or contradicting corporate principles.

Effective research at this stage may also provide ideas and discussion points for implementation and monitoring, and ensures that the council is able to adapt its approach to provide the best value to customers.

Evidence should be gathered, including from partners, to be shared and presented in an accessible way, in good time for members to assimilate prior to discussion. Evidence would include local socio-economic data and the result of locality-based engagement, taking cognisance of Audit Scotland guidance, and Community Empowerment Act guidance.

3.1.5 Equalities

All policies must comply with the Public Sector Equality Duty. During the development and review of a policy, Officers and Members are legally obliged to have due regard or consciously consider the need for the policy to:

1. Eliminate discrimination, harassment and victimisation,
2. Advance equality of opportunity between those who have protected characteristics and those who don't,
3. Foster good relations between those who have protected characteristics and those who don't.

During the development and review stage of a policy an Integrated Impact Assessment must be completed to demonstrate the impact on people with any protected characteristic, show regard for the Fairer Scotland Duty and identify any mitigating actions that can be taken.

3.1.6 Fairer Scotland Duty

The Fairer Scotland Duty, Part 1 of the Equality Act 2010, came into force in Scotland in April 2018. It places a legal responsibility on particular public bodies in Scotland, including the Council, to actively consider ('pay due regard to') how they can reduce inequalities of outcomes caused by socioeconomic disadvantage, when making strategic decisions.

To fulfil the council's obligations under the Duty, the key requirements that must be met are:

- to actively consider how to reduce inequalities of outcome in any major strategic decision made; and

- to publish a written assessment, showing how this has been done.

Further information and guidance about the FSD available for officers in the council intranet.

3.1.7 Data Protection Impact Assessment

As part of the process for developing and reviewing a policy, consideration must be given to undertaking a Data Protection Impact Assessment (DPIA, also known as privacy impact assessment or PIA). A DPIA is a tool which can help identify the most effective way to comply with data protection obligations and meet individuals' expectations of privacy. It can minimise the privacy risks associated with a policy for any individual that may be impacted by the policy. Privacy can relate to information (e.g. information about the person) or physical (e.g. maintaining a person's own physical space or solitude – for example from intrusion as a result of acts of surveillance). Further information and guidance on undertaking a DPIA is available for officers in the council intranet.

3.1.8 Engagement

Engagement should be on a locality basis and should be designed to be as inclusive and engaging as possible using formats such as workshops or facilitated sessions. Engagement should be undertaken in line with the Council's **Engagement & Participation Policy** early on in the process whilst ideas are being formulated and before decisions on options have been taken. Members from the locality should be involved in any engagement activity.

Where there is an anticipated impact on particular stakeholders or individuals with protected characteristics then engagement activity must involve impacted groups. For example if devising a policy on Gypsy Travellers, there must be evidence of engagement with the Gypsy Travellers community.

3.1.9 Drafting

The responsible Officer should draft policy taking into account Member engagement and any other appropriate stakeholder engagement. At this stage consideration should be given to the delivery or operation of the policy and where necessary scenarios 'walked through' to ensure implications and risks are understood and can be managed or mitigated.

There is a template available for officers who are developing a new policy in the Policy Framework web pages.

3.2 Consultation

3.2.1 Prior to consultation the draft policy or draft reviewed policy must be endorsed for consultation by the appropriate Directorate Management Team. Corporate policies (e.g Engagement & Participation Policy) must be endorsed by Strategic Leadership Team consultation. Policies should be subject to a consultation period for a minimum of 21 days. Consultations will seek comments from internal representative groups (i.e. services) concerned with the policy and should also include representations from

recognised trade unions as well as any other interested parties, internal or external, including Members. Consultations should be conducted using the Council's Engagement platform, <u>Engage Aberdeenshire</u>.

3.2.2   Specifically there must be consultation with area committees setting out the implications of proposed changes for the committee. A report should be submitted to all appropriate area committees detailing the core issues and how the proposed policy change might affect each Area or Service. Such reports should be submitted timeously to Area Managers to enable discussion at Area Management Teams should this be considered appropriate. The committee report should set out the timetable for the area committee to submit its views and for the eventual consideration of the matter by the appropriate policy committee.

3.2.3   Where the integrated impact assessment (IIA) identifies an impact on individuals with protected characteristics, there must be evidence of consultation with representative groups.

3.2.4   Good practice is to provide feedback on the outcome of the consultation and confirm where comments have been approved or rejected. Reasons for these decisions must also be included. All consultation documents must be prepared for presentation to policy sponsors and appropriate policy committee when submitting it for approval, including decisions and reasons as described.

3.2.5   All consultation promotes equality of opportunity for all people and giving consideration to the nine protected characteristics - age, religion or belief, sex (gender), sexual orientation, disability, race, pregnancy and maternity, marriage and civil partnership and gender reassignment.

3.2.6   This consultation process follows the council's standard *Consultation Code of Practice*

3.3 Approval

3.3.1 Policy approval process

Policy approval should be a two-stage process. In the first instance, draft policies, amended as appropriate as a result of the consultation process, must be presented by the responsible officer or policy sponsor to be agreed by a Chief Officer. Approval may be delegated to a Service Manager as per the List of Officer Powers (Part 2B).

Chief Officer agreed drafts should then be recommended for approval to the relevant policy committee at the next available opportunity. All policies, whether new or revised, must be approved by the appropriate policy committee based on Part 2A List of committee Powers.

When preparing recommendations for approval to the relevant committee, consideration should be given to seeking delegated authority to make minor changes to the policy without reverting back to committee.

3.3.2 Supporting Tools & Documents approval process

Any supporting tools or documents developed in line with related policies, such as procedures and guidance, should be approved by a Chief Officer as per the Scheme of Governance.

Approval of supporting tools and documents by the relevant committee is not necessary by default, but there may be specific circumstances where committee approval would be appropriate. The decision to seek approval at committee should be made in conjunction with the policy sponsor or Chief Officer, and may be influenced by criteria such as:

- The relevant policy committee has requested to review the documentation in full or
- Impact on communities or on those with protected characteristics

Where supporting tools or documents require updating due to reasons such as changes in industry standards or legislative changes, advice should be sought from the policy sponsor or Chief Officer to determine if the update has a substantive impact on the aligned policy and propose changes at policy level. If a substantive impact is identified the policy should be reviewed in line with the development and review process above.

3.3.3 Policy directory and access

All approved policies must be stored in a central council policy directory and must be accessible by all staff. Policies should also be made available to the public via the council's website. The directory will be administered by the Business Strategy Team and may only be edited by those officers nominated as policy sponsor or responsible officer.

3.4 Implementation

3.4.1 Policies should have designated dates to determine:

When the policy was approved,

When the policy becomes effective,

When the policy expires or is eligible for review (see section 3.6).

3.4.2 All policies must be accessible to all employees who use it or are affected by it. They must also be communicated across the council so that employees are aware.

3.4.3 All policies must be accessible to the residents and communities who will be affected by it. Policies should be published on the council's website and accessible copies (in other formats or languages) should be made available as requested.

3.4.4 Policies should designate the officer responsible through the List of Officers Powers (Part 2B) for developing supporting tools and documents in order to implement approved policies. This includes drafting guidelines, procedures and any other related documents.

3.5 Monitoring

3.5.1 Policies should be monitored in line with standard processes and procedures. This should be done by the responsible officer who developed the policy. They must maintain an issues log to review the policy over its lifecycle and be presented at any future policy review.

3.5.2 Each policy committee will consider an overview of their policy framework on an annual basis to identify gaps or review requirements.

3.5.3 Chief Officers will review the complete policy framework periodically to ensure synergy and manage conflict as appropriate.

3.6 Policy review process

3.6.1 Year 1 Review

During the first year following implementation of a policy, work should be undertaken to monitor and assess its success and, where appropriate, minor revisions proposed. Generally, this will be undertaken by the responsible officer and should include feedback from staff using the policy on an operational level. The reviewer will submit proposed revisions to policies or supporting documents to the Directorate Management Team as necessary which can determine the method for taking forward.

3.6.2 Ongoing Review

Once established, policies are subject to a full review within five years. Each policy committee will annually consider the need to review existing policies, supported by the appropriate chief officer (See 3.6.5).

3.6.3 Members, through policy and area committees, may also identify a requirement to review (or develop) a policy at any time through the Part 4A Scrutiny at Aberdeenshire process.

Unlike in the development of a new policy, there is no requirement for area committees to be consulted on the review of a policy as a default, other than where –

- the relevant Chief Officer has identified significant changes which may impact on communities as a result of the review, or

- in the professional opinion of the relevant Chief Officer, it is considered appropriate.

3.6.4 Policies may also be reviewed or amended before their due date (Year 4) by any officer with appropriate authority under the List of Officers Powers (Part 2B).

3.6.5 When considered by the policy committee annual overview, policies are categorised by the Business Strategy Team using a traffic light system to indicate readiness for review. Responsible officers (or, in their absence, policy sponsors) will be asked to comment on policies marked amber and red, providing justification for when they should be reviewed according to the criteria in 3.6.6. This also considers the impact of the policy on protected characteristics as defined by the Equality Act 2010. Members of the policy committee may make a determination on when a review should be carried out. The categories are defined as follows:-

  (a) Red – Review is required.
  Policy is older than four years – a review must be completed before the end of the five-year period from when the policy was agreed, if possible
  Policy is believed to have a negative or unknown impact on people with protected characteristics.
  External or other factors give just cause for review, see criteria in 3.6.6.

  (b) Amber – For monitoring.
  Policy is over three years old and less than four years old.
  External or other factors could give just cause for review include, for example, legislation that contradicts the policy has been passed, or a permanent reduction in resources is anticipated within one-two years.

  (c) Green – No action.
  Policy has been in place for three years or less - subject to regular monitoring under the Year 1 Review process.

3.6.6 A policy is identified as requiring review if it meets any of the following criteria:

- Policy does not fit with the strategic Priorities of the council (e.g. Council Plan) or priorities of Members,
- Policy is not fit for purpose at the present time, for example as a result of changed statutory requirements,
- Policy must be altered due to statutory obligations,
- Policy conflicts with other existing policies,
- Policy is to be consolidated as part of a new policy,
- The relevant policy committee has requested a full review as part of scrutiny recommendations,
- Unintended impact on those with protected characteristics has been identified,
- An area committee has requested a policy review as part of the Committee Review Process.
- A permanent reduction in resources for the activity being regulated by the policy.

3.6.7 Policies may be approved by the policy committee with no amendments after evaluating it according to this criteria and considering officers' recommendations, and no further action is required.

3.6.8 In the event that a policy requires review, the policy committee will instruct a responsible officer to investigate and review the policy by following the steps laid out in Sections 3.1 (except for 3.1.1., 3.1.2 and 3.1.3), 3.2 and 3.3, in order to propose amendments or replacements, and present to the relevant policy committee at a future date. This review should also consider the impact on any supporting documents and the need to amend these.

3.6.9 Supporting tools and documents should also be reviewed within a five year period in line with the review of the policy (as described at section 6.3.6.2). All supporting tools and documents should identify the responsible officer who will conduct reviews within the body of the text.

   (a) Supporting tools and documents may be renewed with no amendments by the responsible Chief Officer through the List of Officer Powers.

   (b) Section 3.6.8 should inform any review.

        Members do not by default, have a right to review or amend supporting tools and documents, insofar as they relate to operational matters, but may comment and give recommendations through committees to specify certain provisions.

Flowchart Appendix 1

Is what you are developing going to have an impact externally - on residents, businesses or communities?

Yes / **No**

Yes branch:

Are you developing this in response to legislation?

Yes / **No**

Yes: Have we the ability to interpret or respond in a different way to others, for example another council?

Yes / **No**

Yes: You are developing a policy, plan or strategy as defined at Appendix 1. Follow policy framework and seek approval at appropriate committee.

No: You are developing procedures, an operating process, guidance or other as defined in Appendix 2. You do not need committee approval.

No: Are you developing a statement of intent or identifying priorities that will change how the council delivers services in the short, medium or long term future?

Yes / **No**

Yes: You are developing a policy, plan or strategy as defined at Appendix 1. Follow policy framework and seek approval at appropriate committee.

No: You are developing procedures, an operating process, action plan or other as defined in Appendix 2. You do not need committee approval.

No branch:

Are you developing rues or procedures that will impact on employees - for example that dictates how they must undertake certain activities or how something is addressed in the workplace? This is most likely to be in response to legislation but not necessarily.

Yes / **No**

Yes: You are developing an organisational policy - Health & Safety or HR. This does not need committee approval but must be consulted on appropriately. Please follow the HR/H&S organisational policy frameworks.

No: Are you developing instructions, guidance, or actions to be taken by employees in order to deliver a statement of intent, strategy or set of agreed priorities?

Yes / **No**

Yes: You are developing procedures, an operating process, action plan or other as defined in Appendix 2. You are developing procedures, an operating process, guidance or other as defined in Appendix 2. You do not need committee approval.

No: Seek advice from the Policy, Performance & Improvement Team.

The Policy Framework specifically focuses on the development of policies as defined below. For avoidance of doubt definitions are also provided for other related tools such as documents that may be used to support a policy in order to achieve a specific objective.

Policy – A policy is a formal, concise, accessible statement on how the council intends to conduct business and deliver services. Generally it will be a statement of intent with rules that influence and enable decision making. A policy statement will lessen the risk of conflict and remove the opportunity for unfair selective application of rules. A policy must be consulted on and approved through the appropriate policy and any changes to the policy must also be approved. An example of a simple policy statement is:

Confidentiality Policy
It is our policy to keep confidential all personal information about the children, families, staff and volunteers involved in our service.
Personal information about families in relation to Child Protection concerns will be shared on a need to know basis in line with our Child Protection Policy.

Regulation – A regulation will provide a framework for managing a specific aspect of the council's business and would normally apply to every employee and any individual or organisation acting on the council's behalf. It is rare that the council would develop its own regulations – more usually the council will be obliged by law to follow regulations associated with specific legislation and governed by Scottish, UK or EU law. Any internal regulations developed by the council must be approved by committee and legal advice must be sought. An example of council developed regulations are *the council's Financial Regulations.*

Strategy/Plan – Plans and strategies will exist at every level in the organisation and will identify principles and actions required to deliver the vision and outcomes stated by the council. If the strategy or plan identifies a statement of intent that will impact on the development of policy (for example the Local Transport Strategy may impact on the planning, development management and roads policy) then the appropriate consultation and approval should be sought.

There are certain types of strategies and plans that may include a policy statement – for example the Local Development Plan – and these must be approved at committee. It is likely that specific processes and procedures will exist for these types of plans that will ensure appropriate governance, however contact the Business Strategy Team within Customer & Digital Services to discuss if unsure.

Flowchart Appendix 2

The following definitions are for tools and documents that are likely to be developed in order to deliver a policy. These are statements of actions. These are not policies in their own right and do not have the same status as a policy.

Procedure – A procedure is a written statement that describes how a policy or specific legislation will be put into action within the council. A procedure does not require approval by policy or area committee but should be approved by the relevant Leadership Team. Where linked to a policy, a procedure can be amended in isolation from the associated policy. However if the amendment results in any aspect of the policy being compromised or unable to be delivered as intended, the policy must be reviewed and reapproved by committee as necessary.

A simple example of a procedure is:

Confidentiality Procedures
- *Parents will have access to records kept in the service, but only in relation to their own child.*
- *All new staff and volunteers will be informed of our confidentiality policy and procedures as part of their induction programme.*
- *Information held in the service in relation to Child Protection Concerns will be stored in a separate locked drawer and will be shared only on a need to know basis in line with our Child Protection Policy and with Data Protection Legislation.*

Protocol – A protocol is a system of informally agreed rules that explain the correct conduct and procedures to be followed in specifically identified situations. A protocol does not require committee approval but should be agreed on by the appropriate Leadership Team. An example of a protocol is:

Protocol for royal and ministerial visits - This protocol would aim to outline the steps to be followed in advance of, and during organisation of, such an event.

Guidance – Guidance may be associated with a procedure or a policy and will provide advice and direction on how to deal with a particular situation. Guidance does not require approval by policy or area committee and can be reviewed and refreshed as required.