



# Secondment & Acting Up Procedure & Policy

---

## 1 Introduction

Secondment and acting-up opportunities are recognised by the Governing Board as being valuable for both employee development and to cover posts. In addition, they offer benefits for all parties involved by:

- Allowing employees to be moved to areas of increased work to meet changing demands
- Providing unique development opportunities for employees to perform in challenging situations
- Enhancing employee motivation
- Allowing the transfer of employees skills and knowledge
- Giving employees an opportunity to gain a greater understanding of different services
- Supporting succession planning.

However employees do not have an automatic right to undertake a secondment or acting up opportunity.

## 2 Definitions

### 2.1 Secondment Opportunities

A secondment is an opportunity for an employee to undertake a different role to that of their substantive post.

There are three types of secondment:

- **Internal Secondment:** An employee working in a different area of expertise in the school;
- **Outgoing Secondment:** A school employee working in a different organisation whilst retaining their substantive post within the school;
- **Incoming Secondment:** A school post that is being covered by an employee of another organisation who remains employed by them, who retains their substantive post with the employing organisation.

A secondment is typically made up of a number of factors including changes to:

- Work location/organisation,
- The team within which an individual works,
- Line management responsibility held by an individual, or
- Key job role and responsibilities

## **2.2 Acting-up Opportunities**

These differ from secondments, as they tend to be internal opportunities within a school. Acting-up normally occurs when an employee fills a vacancy, which is of a more senior nature than their substantive post, on a temporary basis.

Prior to the commencement of the acting-up arrangement an agreement must be reached on the scope of the role as follows:

- Will the acting up arrangement apply to 100% or just some of the posts duties?
- Purpose of the acting-up arrangement
- Competencies required or to be developed by the employee
- Job description
- Reporting lines including absence reporting
- Predicted timescale for the arrangement
- Terms and conditions of employment under the arrangement including remuneration

The employee will be notified of this prior to the commencement of the arrangement.

## **3 Secondment and Acting-up Arrangements**

### **3.1 Practicalities**

The Governing Board will actively support secondment and acting-up opportunities where it is reasonable and practicable to do so and where operational needs will not be adversely affected.

For secondment opportunities, employees must discuss their request with their Head Teacher/manager at the earliest opportunity and seek approval prior to applying for the post. Decisions on whether to allow an employee to apply will be made on an individual basis taking into account the wishes of the individual and impact on the running of the school.

### **3.2 Internal Secondments**

If the employee moves to another role within their school, HR Services will provide the employee with an offer letter (See Appendix A). It is the responsibility of the Head Teacher/individual's original manager to keep the employee informed of any key issues impacting on their substantive role. This applies in particular to any changes that may affect their substantive post to which they expect to return. In situations where the employee is filling the role of their manager this responsibility will pass to their new manager.

### **3.3 Outgoing Secondments**

Where an employee of the school is seconded to another organisation, HR Services will provide the employee with a Secondment Agreement (See Appendix B) and a secondment letter (See Appendix C). The Secondment Agreement will be signed by both the Governing Board and the host organisation and will cover the contractual arrangements of the secondment.

### **3.4 Incoming Secondments**

For employees of other organisations being seconded to the school, it will be the responsibility of their employing organisation to provide a Secondment Agreement as outlined above. However, where appropriate the Governing Board may also follow this up with a letter (See Appendix D). A checklist is also provided highlighting key considerations (Appendix E). In addition, we would expect the secondee's employing organisation to ensure that the individual is kept informed of any changes to their substantive role or employment. The secondee does not become an employee of the Council/Governing Board.

### **3.5 Length of Arrangement**

For secondment opportunities, the exact nature and details of each secondment can vary dependent upon the needs of the post however they are normally for no longer than three years. In situations where an employee of the Council/Governing Board is seconded to another organisation this will be for a maximum of three years. Likewise where we intend to second an individual from an external organisation, that organisation may have limits on the length of time they are prepared to second their employee to the Council/Governing Board.

Acting-up opportunities will normally be for a specific period or to cover for a specific reason i.e. to cover maternity leave, long-term sickness or the period between an employee leaving and a post being filled. With this in mind there will be a 12 month limit on the length of an acting-up arrangement to be reviewed thereafter by the Head Teacher/manager.

### **3.6 Confirmation of Arrangements**

For secondment and acting-up opportunities, it is the responsibility of the employee's original Head Teacher to notify HR Services at the beginning and end of such agreements.

Copies of any paperwork relevant to the secondment should be forwarded to HR Services throughout the duration of the secondment.

### **3.7 Security of Employment**

During internal and outgoing secondments and many acting-up arrangements the employee's substantive post will normally be covered (perhaps by another secondee, further acting-up arrangements or fixed term employment) and therefore will remain open. The employee will return to their substantive post at the end of the secondment, or in the event of a reorganisation, a suitable alternative will be sought. If there is no suitable alternative post available, redeployment or the Council's ER/VR Scheme will be considered) The Council/Governing Board would expect that similar security be given to employees being seconded from other organisations to the school/Council.

## **4 Recruitment**

### **4.1 Secondment/Acting-up opportunities of less than 6 months**

Due to the nature and the urgency of some work, a secondment or acting-up opportunity for a period of less than six months may not need to be advertised in the normal way. The Head Teacher/manager with the opportunity, in conjunction with their Chair of Governors, may decide to offer this to an employee who they feel has the most appropriate transferable skills and experience. Where it is felt a number of employees have the appropriate skills, informal interviews will be held.

#### **4.2 Secondment/Acting-up opportunities of more than 6 Months**

For all secondments or acting-up opportunities for more than 6 months, the vacancy will be advertised in the normal way. Please refer to the school's Recruitment and Selection Policy for further information.

The advertising of secondments with other organisations can usually be found on national or local websites. However, it is sometimes the case that the school is approached by external organisations requesting support on a secondment basis in particular skill areas and this will be advertised to employees of the school.

#### **4.3 The post occupied by an employee on a secondment or acting-up opportunity becomes vacant and needs to be filled on a permanent basis**

If during the period of secondment or acting-up arrangement, the post occupied by the secondee becomes vacant, the post will be advertised in accordance with the school's Recruitment and Selection Policy unless a recruitment process has already been undertaken. The employee currently in post (either through secondment or acting-up) may choose to apply for this vacancy in the normal way. This is regardless of the duration of the secondment/acting up arrangement

### **5 Conditions of Service**

#### **5.1 Annual Leave and Time Off**

The employee should seek the approval from their Head Teacher/manager to take annual leave. In the case of a secondment or acting-up arrangement that ends part way through the annual leave year the Head Teacher/manager must pay due consideration to the individual being able to take an appropriate amount of leave by the end of the arrangement. For example, it would not be appropriate for an individual to return to a substantive post towards the end of their annual leave year with a lot of outstanding leave to be taken. It is the responsibility of the host Head Teacher/manager to approve leave for individuals seconded into the school.

This does not apply to teachers or staff working term-time where leave is taken during periods of school closure.

#### **5.2 Pay and Financial Considerations**

Please refer to Honoraria Policy for more information on remuneration for acting-up opportunities.

In the case of internal secondments, employees will be paid the relevant remuneration in line with the grading of the post. For secondments to the school of employees from other organisations, the employee will be paid by the employing organisation and this includes on-costs and any allowances such as travel and subsistence. The employing organisation can then claim these costs back in arrears or as agreed between both parties. Likewise, where an employee of the school is seconded to another organisation, the school would pay the salary, on-costs and expenses and re-charge the costs to the host organisation. Disturbance allowance will only be paid in situations where the secondment/acting up opportunity arose as a result of a restructure.

#### **5.3 Continuation of Service**

As an existing substantive employee of the Council/Governing Board, any employee who is seconded to another Council will retain the employment rights afforded by continuous employment with the Council/Governing Board throughout the period of the secondment. There may be other organisations where this will also apply and further details may be obtained from the School HR Adviser.

#### **5.4 Record Keeping**

The employee's Head Teacher/manager will maintain and make available to the employee's original Head Teacher/manager, on request, an attendance record in respect of the employee. This includes, in the case of incoming secondments, providing information to the individual's original employer. This responsibility requires the recording of:

- absence due to annual, sick or special leave;
- absence due to industrial action;
- unauthorised absences; and
- overtime

### **6 Misconduct/Poor Performance**

For internal secondments and acting-up arrangements, employees will continue to be subject to the School's Code of Conduct and employment policies and procedures (including those governing discipline and capability issues).

Incoming secondments will be subject to their organisation's Code of Conduct and behavioural standards. In the event that the Head Teacher/manager alleges misconduct on the part of the secondee or their performance is unsatisfactory then the Head Teacher/manager should immediately notify the employing organisation who will arrange for the appropriate disciplinary action, if any, to be taken. Any disciplinary hearing will be chaired by a representative(s) from the employing organisation and attended by the Head Teacher/manager and a representative of HR Services. Furthermore any disciplinary sanction taken by the employing organisation would also be recorded on the file held by the school.

Employees who are seconded to other organisations will be subject to the school's Code of Conduct. As the original employer, the school would be contacted to jointly address any issues of discipline or capability. Any disciplinary sanction taken by the Head Teacher/Governing Board would be recorded on the personal file held by the school/Council and copied to the host manager for information.

### **7 Termination**

Either party may terminate secondment and acting-up arrangements in line with the notice provision contained in the confirmation of such agreements. Where the disciplinary and capability procedures are followed, a secondment or acting-up arrangement may be terminated without notice by the host manager, if:

- the employee fails or neglects to carry out efficiently and diligently the reasonable instruction of the host manager; or
- the host manager considers that the individual's actions or behaviours represent gross misconduct.

Incoming secondment arrangements will be terminated immediately by the employing organisation if the secondee ceases (for whatever reason) to be employed by them.

## **8 Support and Guidance**

Support on secondments and acting-up arrangements can be obtained from HR Services.

**Please note advice should always be sought from Legal Services when using any of the appendices as individual circumstances will need to be reflected in supporting documentation.**

## **9 Equality and Diversity Statement**

The Governing Board and South Tyneside are committed to promoting equality and valuing diversity. An equality check was carried out in March 2019. No equality implications were identified in this policy.

Policy approved by Governors:	May 2026
Date of next review by Governors:	May 2027

## Appendix A OFFER LETTER TO INTERNAL SECONDEE

Date: ^  
Our Ref:  
Your Ref:

Dear

### Internal Secondment to the post of: ^ Group

Further to your interview on ^, I am pleased to confirm that you will be seconded to the above-mentioned post within the ^ Group with effect from ^.

This arrangement is proposed to continue until ^. If you accept the secondment then on termination you will revert to your substantive post of ^, your substantive grade, the duties associated with your grade and your respective contractual terms and conditions.

During the period of secondment the following variations to your contractual terms and conditions will apply:-

### Line Manager

Your Line Manager will be ^ (insert name of post) who is currently ^ (insert name of individual). This person will be responsible for overseeing the day to day performance of your duties, training, instruction and approval of all leave for whatever reason.

### Duties

Your duties will be as follows:-

(Insert new job description); or  
New Tasks: - (insert new duties Seconded expected to perform)

Old Tasks: (insert tasks which will transfer with the Seconded from current post)

### Hours of Work

Your hours of work \*will remain unchanged/will be ^ per week.

### Salary

Your salary will remain unchanged during the period of secondment/will be ^ to ^

Your commencing salary will be £^ per annum, SCP^, within the salary scale ^. The corresponding minimum and maximum salaries in this Band are £^ to £^ per annum, SCP^ to ^ ;,.

### Leave

The annual leave entitlement attached to the post to which you are being seconded to is ^.

\*Your annual leave entitlement will therefore be increased by ^ days. Please return your Annual Leave Card to ^ for amendment/Your annual leave will therefore remain unchanged.

\*Any leave of absence, including sickness, annual, flexi, maternity, special with pay, etc, incurred during your period of undertaking the full duties and responsibilities of the higher graded post shall attract payment

at the higher grade **unless** the absence exceeds four weeks. If the absence exceeds a continuous period of four weeks the temporary variation of contract shall cease with effect from the first day following the four week absence period and you shall revert to your normal grade and the terms and conditions attached to your grade.

**Location of Performance of Duties**

During the period of secondment you will be located at the following offices for the performance of your duties: ^

**Pension**

If you are a member of the Local Government Pension Scheme your change in pensionable circumstances will be notified to Pensions automatically.

All other terms and conditions will remain unchanged.

**Termination**

The secondment will continue until the date stipulated in the second paragraph of this letter. However, it is agreed that at any time during the secondment you or the Council may terminate this secondment arrangement early by giving 28 days notice in writing to the other party without the need to give any reasons.

**Acceptance**

If you are willing to accept the contractual temporary variations and the terms and conditions contained or referred to in this letter please sign the declaration below and return it to me. You should sign and retain the additional copy for your own information.

Yours sincerely

.....

**Declaration**

I accept/do not accept\* the contractual temporary variations and the terms and conditions contained or referred to in this letter.

Signed ..... Dated .....

\* Delete as appropriate

**Please note advice should always be sought from Legal Services when using any of the appendices as individual circumstances will need to be reflected in supporting documentation.**

Appendix B

**Appendix B - Secondment agreement**

**SOUTH TYNESIDE COUNCIL**

**AND**

**^**

**SECONDMENT AGREEMENT**

Made in respect of the Secondment of

**^**

**THIS AGREEMENT** is made on

day of

20^^

**BETWEEN:-**

- (1) **SOUTH TYNESIDE COUNCIL** of Town Hall and Civic Offices Westoe Road South Shields Tyne and Wear NE33 2RL (“the Employer”);
- (2) ^ (name of company/organisation) ^ (insert company number and registered office/address of organisation) (“the Host”)

**IT IS AGREED** as follows:-

## 1. **Definitions and Interpretations**

1.1 In this Agreement the following words shall mean:-

“Parties” The Employer and the Host.

“Commencement Date” ^

“Termination Date” Is the date on which this Agreement ends. In the absence of early termination this will be ^

“The Secondee” Is the member of staff of the Employer who is seconded by virtue of this Agreement namely ^

“Secondment Period” The period between the Commencement Date and the Termination Date.

“Contract Manager” The person in South Tyneside Council responsible for the management of this Agreement namely ^ (insert title of person), who is currently ^ (insert name of individual)

“Host Manager” The person in the Host responsible for the line management of the Secondee whilst on secondment namely ^ (insert title of person) who is currently ^ (insert name of individual)

“Services” Are the duties to be performed by the Secondee during the Secondment Period as set out in Schedule 1.

“Contract of Employment” Is the Contract of Employment of the Secondee with the Employer which began on the ^

1.2 In Interpreting this Agreement:-

1.2.1 references to “Agreement” mean this Agreement and include all schedules to it and references to clauses and schedules are to clauses and schedules of this Agreement unless stated otherwise;

1.2.2 the masculine includes the feminine and vice versa and the singular includes the plural and vice versa;

- 1.2.3 references to any legislation includes all prior and subsequent enactments, amendments and modifications relating to the same or any subordinate legislation made under it;
- 1.2.4 the headings in this Agreement will not affect its interpretation;
- 1.2.5 except as otherwise defined words and expressions will be construed in accordance with the Interpretation Act 1978.

## 2. **Purpose of the Agreement**

- 2.1 The Employer second the Secondee to the Host from the Commencement Date for the purpose of executing the Services during the Secondment Period.
- 2.2 During the secondment the Employee will act as a ^ for the Host whilst continuing to be employed by the Employer under the Contract of Employment.
- 2.3 The Parties may extend the Secondment Period by Agreement with the Secondee.

## 3. **Duties**

- 3.1 The Secondee will be seconded to perform the Services at the level of remuneration indicated in Schedule 1. During the Secondment Period the Secondee shall report to the Host Manager.
- 3.2 The Secondee will carry out all reasonable instructions of the Host during the Secondment Period.

## 4. **Conditions of Secondment**

- 4.1 The Secondee's performance of the Services for the Host under this Agreement will be deemed to be performed in the course of his/her employment with the Employer. The terms of the Contract of Employment will continue to apply to the Secondee in the performance of the Services and no variation can be made to the Services of the Secondee by the Host without the prior approval in writing of the Employer. Such approval shall not be unreasonably withheld.
- 4.2 Any amendments or variations to the Secondee's Contract of Employment can be made solely by the Employer and must be notified in writing to the Host.
- 4.3 The Host and the Employer agree that the Host is responsible for the day-to-day management of the Secondee during the Secondment Period. This includes but is not limited to management (short of any formal disciplinary action) of the Secondee's behaviour and standards of work including time-keeping and absenteeism.
- 4.4 The Secondee will be subject to the Employer's Code of Conduct and Grievance/Disciplinary Procedures, which it will be the responsibility of the Employer to instigate and carry out in the event of any disciplinary proceedings being necessary in respect of the Secondee.
- 4.5 The Host will ensure that the duties of the Secondee are appropriate to the Secondee's status, knowledge and skills and will ensure that the Secondee is afforded proper and sufficient opportunities for training and instruction with regard to:-
  - 4.5.1 the Services to be performed for the Host; and

4.5.2 all relevant rules, policies, procedures and standards of the Host as provided by the Host and all relevant statutes and statutory instruments including those relating to fire risks, fire precautions and health and safety.

4.6 The Host will agree directly with the Seconded the location at which the Services will be performed during the Secondment period and the parties acknowledge that the Host Manager will be responsible for all aspects of the control and direction of the Seconded's work during the Secondment Period.

4.7 Meetings to monitor progress will be held between representatives of the parties unless otherwise agreed by the Employer. Composition of the meetings, their times, dates and locations will be as agreed by the parties. The function of the progress meetings will be to monitor progress and efficiency and to review the scope and direction of the Secondment.

4.8 The Host agrees that it will observe the terms under which the Seconded is employed by the Employer as if it were the employer of the Seconded and that it will not do or omit to do anything which would cause the Employer to breach any of its obligations to the Seconded.

## **5. Conflict of Interest**

5.1 The Host will not employ the Seconded on any work, which relates to work which he/she has been engaged on with the Employer and which could give rise to a conflict of interest.

5.2 If the Seconded has raised a conflict of interest issue, the Host will not require the Seconded to continue to work on the matter until it has been discussed in full with the Employer and a course of mutually satisfactory action agreed.

## **6. Salary and Pension Benefits**

6.1 The Employer agrees to pay directly to the Seconded the salary set out in the Contract of Employment for the duration of the Secondment Period plus the cost of any Salary increase to which the Seconded is entitled in accordance with Clause 3.1 and Schedule 1 and any overtime worked by the Seconded and authorised by the Host. The Employer will also be responsible for payment direct of all salary related on-costs (National Insurance etc) payable by the Employer in respect of the Seconded's salary and the pension contributions paid by the Employer into the Local Government Pension Scheme. All such payments made by the Employer to, or on account of, the Seconded will be reimbursed by the Host.

6.2 The Employer will be reimbursed monthly by the Host within 30 days of receipt of a valid invoice.

## **7. VAT**

7.1 Any sums payable by either party under this Agreement will attract VAT at the standard rate where applicable.

## **8. Expenses**

8.1 The Seconded may claim for travelling subsistence or other out of pocket expenses incurred whilst carrying out the Services under this Agreement from the Host.

8.2 If the Host is satisfied as to the validity of the claims submitted by the Seconded under Clause 8.1 they will pay the Seconded the amount claimed. Such expenses will be paid at the current Employer Expense Rates.

## 9. **Hours of Work**

9.1 The Seconded's normal hours of work are as set out in the Contract of Employment or as agreed in relation to the seconded post. If the Receiving Authority operates a scheme of flexible working hours, or if the Employer Scheme can be operated without affecting the performance of the Services this will apply to the Seconded.

## 10. **Leave, Sick or Other Absence**

10.1 The Host will observe the annual leave, public holidays and sick leave entitlements as provided by the Seconded's Contract of Employment with the Employer. All leave entitlement during the Secondment Period shall be taken at such times as previously agreed between the Seconded and the Host Manager.

10.2 If the Seconded is absent from work on account of sickness, injury, maternity leave, parental leave, adoption leave or any other leave which is permitted under the Contract of Employment or under any Statutory Instrument or otherwise the Employer will have no responsibility to the Host for the provision of any replacement, whether temporarily or throughout such period of absence. The Host will notify the Employer of all such absences as soon as practically possible and will maintain an attendance record for the Seconded in respect of the same.

## 11. **Discipline**

11.1 The Seconded will at all times during this Contract be subject to the Employer's Disciplinary Procedure. In the event that the Host alleges that the Seconded is guilty of misconduct or that the Seconded's performance of the Services is unsatisfactory the Host should immediately notify the Employer Contract Manager who will arrange for the appropriate disciplinary action, if any, to be taken.

11.2 The Host may only suspend the Seconded as a consequence of an allegation of gross misconduct where it is not reasonably practicable for the Host to contact the Employer prior to the suspension. For the avoidance of doubt the Host will have no authority to dismiss the Seconded.

## 12. **Liability**

12.1 Subject to clause 11.2 above the Employer is not liable for any direct, special or consequential loss, expense, damages or delay arising from: -

12.1.1 the Secondment Period ending prematurely unless wholly attributable to unreasonable action on the part of the Employer; or

12.1.2 the negligence, dishonesty or misconduct of the Seconded during the Secondment Period.

12.2 Nothing in this Agreement shall operate to exclude or restrict either party's liability for:

-

12.2.1 death or personal injury resulting from negligence; or

12.2.2 fraud or deceit.

12.3 The Host agrees to be responsible for all acts errors or omissions of the Secondee whether wilful, negligent or otherwise arising from the operation of this Agreement as though the Secondee were the Host's own employee. The Host Authority will also comply in all respects with all statutory requirements including, but not limited to the Health and Safety at Work Etc Act 1974 to which the Host is ordinarily subject in respect of its own staff and in particular the provision of adequate employers and public liability insurance cover for the Secondee during the Secondment Period.

### **13. Indemnity**

13.1 The Host agrees to indemnify the Employer against all liabilities costs and expenses arising out of or in anyway connected to the secondment of the Secondee to the Host, and all documents signed or actions taken by the Secondee during the Secondment Period save to the extent that any such liabilities, costs and expenses are agreed or found not to be, or demonstrated by the Host not to have been caused or contributed to by, the fault, responsibility, negligence or default of the Host or its staff or agents or contractors, or by any circumstances within its control. For the avoidance of doubt this includes, but is not limited to, any contractual or statutory claim brought against the Employer by the Secondee in an Employment Tribunal, County Court or High Court for any reason associated with this Secondment howsoever arising including claims relating to (but not necessarily limited to), redundancy payments, pay in lieu of notice, outstanding salary, sickness or holiday pay, maternity pay, adoption leave pay, unfair dismissal, unlawful deductions from pay, discrimination on the grounds of race, sex, disability , religion or belief, sexual orientation or age, complaints under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Working Time Regulations 1998.

13.2 If any claim arises under Clause 12.1 the Host will reasonably assist the Employer in all regards (including but not limited to providing documentation not deemed to be privileged or access thereto, witnesses and witness evidence) with any and all of the aforementioned matters whenever it is requested by the Employer to do so.

### **14. Duration and Termination**

14.1 The Secondment will begin on the Commencement Date and, subject to this Agreement, will continue for the Secondment Period until the Termination Date.

14.2 This Agreement may be terminated early by either party giving to the other at least 28 days notice in writing without the need to give any reasons.

14.3 If the Secondee ceases to be employed by the Employer for whatever reason this Agreement will end automatically. The Employer will give immediate notice to the Host of the cessation of the Secondee's employment with itself.

14.4 Either of the parties may terminate this Agreement (with immediate effect by notice in writing to the other) in the event of a material breach of any of the terms of this Agreement and, in the case of a breach capable of remedy, fails to remedy such breach within 30 days of receipt of written notice giving full particulars of the breach and of the steps required to remedy it.

14.5 This Secondment Agreement may be terminated immediately by the Host if: -

- the Secondee fails or neglects efficiently and diligently to carry out the reasonable instructions of the Host; or

- the Host reasonably considers that the Secondee is guilty of gross or serious misconduct.

## 15. **Copyright**

15.1 In this Agreement “copyright” means any and all copyright including design right and all other rights of a like nature which arise in respect of the Services of the Secondee during the course of this Agreement in relation to any literary or artistic work typographical arrangements or design.

15.2 The parties agree that the Host is legally and beneficially entitled to any and all copyright which arises under this Agreement and the Employer assigns to the Host any and all residual title which it may have in any and all such copyright.

15.3 In consideration of this assignment set out in Clause 15.2 the Host grants the Employer a worldwide non-exclusive royalty-free licence to use the copyright and to authorise others to use the copyright and to do all other acts authorised by the Copyright Designs and Patents Act 1988 in relation to the copyright as it in its absolute discretion deems appropriate, except where the Host’s contract with its customer precludes this.

## 16. **Confidentiality**

16.1 In this Clause “Confidential Information” means all documents and information in whatever form disclosed or made available to the Secondee during or in connection with the secondment to the Host but does not include information which:-

16.1.1 is already in the public domain; or

16.1.2 is disclosed to the Secondee without any obligation of confidence by a third party who has not derived it directly or indirectly from the Host; or

16.1.3 is trivial or cannot reasonably be considered to be confidential.

16.2 During and after the termination of this Contract the Employer will not require the Secondee to disclose or divulge any Confidential Information without the prior consent of the Host.

16.3 During and after the termination of this Contract the Employer will use all reasonable endeavours to ensure that the Secondee does not disclose or divulge any Confidential Information without the prior written consent of the Host.

16.4 Nothing in this Agreement prevents the Employer or the Host from using data processing techniques, ideas and know-how gained during the performance of this Agreement in the furtherance of its normal business, to the extent that this does not relate to the disclosure of Confidential Information.

## 17. **No Poaching Agreement**

17.1 The Host acknowledges that the secondment is a temporary arrangement and that the Secondee will return to the Employer. The Host undertakes not to offer the Secondee employment or to endeavour to entice to its employment the Secondee without the prior agreement of the Employer. The Host indemnifies the Employer in respect of all losses incurred by the Employer as a result of any breach of this clause during the Secondment Period or within 6 months of its termination.

## **18. Notices**

18.1 Any notice to be given under this Agreement must be given in writing from the Contract Manager to the Host Manager or vice versa.

18.2 Any such notice will be deemed to be served if delivered personally, at the time of delivery, if sent by post 48 hours after posting or if sent by facsimile transmission or e-mail 12 hours after proper transmission provided that a copy of such transmission is also sent by post.

## **19. Severance**

19.1 If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable such invalidity or unenforceability will not affect the other provisions of this Agreement, which will remain in full force and effect.

19.2 If any provision of this Agreement is still found to be invalid or unenforceable but would cease to be invalid or unenforceable if some part of the provision was deleted, the provision in question will apply with such modification as may be necessary to make it valid and enforceable.

## **20. No Partnership or Agency**

20.1 Nothing in this Agreement is intended to create a partnership, agency or joint venture or any legal relationship that would enforce liability upon one party for the act or failure to act of the other party between the parties, or to authorise either party to act as agent for the other. Except where expressly stated in this Agreement neither party has the authority to make representations, act in the name or on behalf of or otherwise bind the other.

## **21. Waiver and Cumulative Remedies**

21.1 The rights and remedies provided by this Agreement may be waived only in writing. Any failure to exercise, or any delay in exercising a right or remedy by either party will not constitute a waiver of that right or remedy or of any other rights or remedies. A waiver of any breach of any clause in this Agreement or of a default under this Agreement will not constitute a waiver of any other breach or default and will not affect the other clauses in this Agreement.

21.2 The rights and remedies provided by this Agreement are cumulative and (unless otherwise provided in this Agreement) are not exclusive of any rights or remedies provided at law or in equity.

## **22. Variation**

22.1 No variation or alteration of this Agreement will be effective unless it is in writing and signed by or on behalf of each party.

## **23. Law and Jurisdiction**

23.1 This Agreement will be governed and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English Courts.

## **24. Entire Agreement**

24.1 This Agreement constitutes the entire Agreement between the parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous arrangement between the parties relating to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination.

**25. Contracts (Rights of Third Parties) Act 1999**

25.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This Clause does not affect any right or remedy of any person, which exists or is available otherwise than pursuant to that Act.

**26. Miscellaneous**

26.1 The benefit and burden of this Agreement may not be assigned or sub-contracted in whole or part by either party without the prior written consent of the other party.

16.2 This Agreement may be executed in 2 or more counterparts, each of which will constitute an original but which, when taken together, will constitute one instrument.

**AS WITNESS** the hands of the parties

Authorised to sign on behalf of South Tyneside Council

Signature:

Name (*in capitals*):

Position in Organisation:

Date:

Authorised to sign on behalf of ^

Signature:

Name (*in capitals*):

Position in Organisation:

Date:

## Appendix C - OFFER LETTER TO EMPLOYEE GOING ON SECONDMENT TO AN EXTERNAL ORGANISATION

Date: ^  
Out Ref: ^  
Your Ref: ^

Dear

I refer to the decision to agree to your secondment to ^ (insert name of organisation) to work as ^ (insert position) on the following terms:-

1. You will remain an employee of South Tyneside Council.
2. Except as provided below your Terms and Conditions of Employment as set out in the Contract of Employment entered into with ourselves on ^ day of ^ (insert date of commencement of employment) remain unchanged.
3. In the event of any inconsistency between this letter and your Terms and Conditions of Employment this letter will prevail.
4. If any changes are to be made to your Terms and Conditions of Employment during your secondment, the secondment will continue on the Terms and Conditions as changed and the terms of this letter.
5. Your secondment will commence on the ^ (insert date) and will continue, subject to the terms of this letter until ^ (insert date secondment due to end). The secondment period may be extended if agreed by this Council and ^ (insert name of organisation) and if consented to by yourself.
6. At the end of your secondment your employment with this Council will (except as mentioned below) continue.
7. During the secondment you will devote the whole of your time, attention and skill to the business of ^ (insert name of organisation).
8. During this secondment: -
  - 8.1 you will act as ^ (insert title of post) reporting to ^ (insert title of intended Line Manager) who is currently ^ (insert name of individual) or such other person as ^ (insert name of organisation) may from time to time require;
  - 8.2 Your duties will be as set out in the Offer Letter to you dated ^ from ^ (insert name of organisation) a copy of which is attached to this letter;
  - 8.3 you will be located at ^ (insert location of working venue);
  - 8.4 you will at all times use all reasonable skill and care in the performance of your duties and will act in the best interests of ^ (name of organisation);
  - 8.5 your salary will continue to be paid and reviewed by this Council. During the period of secondment, your salary will \*remain unchanged/be ^ to ^. Your starting salary will be ^. ^. Your salary will

at all times continue to be paid by this Council together with all necessary NI and pension contributions;

- 8.6 the cost of any business mileage you are required to incur will be reimbursed by ^ (insert name of organisation) at the level of remuneration which you are permitted under your Contract of Employment;
- 8.7 all out of pocket expenses properly and necessarily incurred by you in the performance of services for ^ (name of organisation) will be reimbursed by them to you directly; and
- 8.8 all other contractual benefits of your employment will continue to be honoured by this Council.

9. Your secondment will cease:-

- 9.1 if you cease to be employed by this Council for any reason including your resignation;
- 9.2 if our secondment agreement with ^ (insert name of organisation) terminates for any reason; or
- 9.3 if so required by ^ (insert name of organisation), who will have the right to so require where:

9.3.1 you commit any act or omission (whether or not in connection with the secondment) which would entitle ^ (insert name of organisation) to dismiss you summarily if you were employed by them on the same terms as you are employed by this Council;

9.3.2 you conduct yourself in a manner prejudicial to the business of ^ (insert name of organisation); or

9.3.3 you are guilty of dishonesty or are convicted of a criminal offence other than a motoring offence not resulting in imprisonment (whether or not in connection with the secondment).

Should any such event occur we may also wish to summarily terminate your employment and we reserve our right to do so.

- 9.4 if you give notice to us in writing that you wish, for whatever reason, to end the period of secondment we will take immediate steps to serve notice to that effect under the secondment agreement.
- 10. Any disciplinary matter or grievance, which arises during this secondment, will continue to be dealt with by this Council under its procedures from time to time in force.
- 11. You will not become an employee of ^ (insert name of organisation) during your secondment.
- 12. During your secondment and at any time thereafter you must not use for your own purposes or benefit or divulge or communicate to any person (other than as authorised by ^ (insert name of organisation) or, as required for the purpose

of carrying out your duties) any trade secrets or other information which is for the time being confidential relating to the business of ^ (insert name of organisation) or any of its clients, customers or other third parties with whom it has dealings, being information which is marked "Confidential" or which ^ (insert name of organisation) have notified you is to be kept confidential or which by its nature would normally be regarded as being confidential or which to your knowledge has been obtained by ^ (insert name of organisation) from a third party on terms that ^ (insert name of organisation) is to keep it confidential, but this obligation does not extend to information or knowledge which is for the time being in the public domain (otherwise than by reason of its wrongful disclosure) or which is required to be disclosed by law.

13. If during your secondment you are asked to perform any work which you believe would bring you into conflict with the work you perform in the post you hold with this Council you are not to carry out the work and must inform your Line Manager immediately that you believe a conflict of interests has arisen.
14. You must return to ^ (insert name of organisation) upon request and also upon the termination of your secondment all notes, materials, documents, specifications other written material, computer software and other property whatsoever of ^ (insert name of organisation) which for the time being is in your possession or under your control including copies of any such documents, specifications, written material or computer software and you must ensure that all information in any way relating thereto is erased from any personal computer system or other information retrieval system you may have at the same time.
15. Upon the request of ^ (insert name of organisation) and in any event upon the termination of your secondment you are to resign without compensation from any appointments you may then hold as an Officer of ^ (insert name of organisation).
16. On completion of the secondment (or earlier termination) you will return to this Council in your existing post, or, where this no longer exists, a post in salary scale ^ (insert current scale of pay) in any vacancy commensurate with your skills and abilities and your current terms and conditions.
17. This letter does not constitute a Contract of Employment with ^ (insert name of organisation). Save as specified in this letter all Terms and Conditions of your Employment remain as set out in your Contract of Employment with this Council.
18. Please sign, date and return the attached copy of this letter to ^ by ^ to indicate your acceptance of the secondment and the changes to your Terms and Conditions of Employment as set out in this letter.

Yours sincerely,

**For and on behalf of**  
**South Tyneside Council**

**Enc.**

**Endorsement on Copy to South Tyneside Council**

I hereby accept the secondment to ^ (insert name of organisation) on the Terms and Conditions set out in your letter dated (date), of which the above is a copy. I acknowledge and agree that the terms of my employment have been varied accordingly.

I hereby do not accept the secondment to ^ (insert name of organisation) on the Terms and Conditions set out in your letter dated (date), of which the above is a copy.

Signed .....  
          ^ **(Secondee)**

Date .....

**Appendix D - OFFER LETTER TO INCOMING PERSON ON SECONDMENT**

(Name and Address of Recipient)

Date: ^  
Our Ref:  
Your Ref:

Dear ^

**Re: Secondment to Post of : ^, ^ Group**

Following your interview for the post of ^ within the Group, I am pleased to confirm that it has been agreed that you may be seconded from ^ (*name of present employer*) for the period ^ to ^.

The salary and hours of work applicable will be ^ to ^ (*insert salary scales*) per annum, your starting salary will be £^ per annum and you will work ^ hours per \*week/month, which will be worked flexibly to meet the needs of the service (South Tyneside Council salary scale and ^ (*name of current employer*) conditions regarding hours of work).

In addition, cost of living rises will be awarded annually in accordance with NJC terms and conditions. Annual leave entitlement will be as per your ^ (*name of current employer*) conditions.

Any sickness absence must be notified to both the Council and ^ (*name of current employer*), fit notes must be forwarded to the ^ (*name of current employer*) to enable the payment of sickness benefits.

All matters relating to health and safety will fall under South Tyneside Council's Policy and Procedures.

All other terms and conditions will remain unchanged.

\*Your post is also subject to receipt of satisfactory DBS clearance, could you please complete the attached form and return to ^ with the required verification of identity information.

I should be obliged if you could confirm your acceptance of this post in writing by signing and returning the copy letter enclosed in the stamp addressed envelope provided.

Yours sincerely

\* Delete as appropriate.

On copy letter:-  
I accept the secondment to South Tyneside Council and the temporary contractual variations to the terms and conditions of my employment with ^ contained or referred to in this letter.

Signed: .....

*(Print name in capitals)*

Dated:

**Please note advice should always be sought from Legal Services when using any of the appendices as individual circumstances will need to be reflected in supporting documentation.**

## **Appendix E - CHECKLIST OF MATTERS TO CONSIDER ON INCOMING SECONDMENT**

1. The Secondee will be employed by us on the terms and conditions under which he/she is currently employed by their present Employer. It is advisable that the Secondee's Line Manager requests a copy of the terms and conditions from the current Employer so that the Secondee can be properly managed by the Line Manager. This can be particularly relevant with regard to ensuring compliance with the Employer's appraisal systems etc.
2. You should consider whether the post the individual is coming to is a higher salary than the one the individual is currently receiving with their present Employer.
  - 2.1 If it is, ensure the Secondment Agreement acknowledges that the individual Secondee will be paid by the Employer at the higher rate, which we will be reimbursing in full. They will also be paying pension and national insurance at their own rates not ours. You must ensure you are aware of what these levels are and have budgeted accordingly.
  - 2.2 If they are not, we will be obliged to meet the Secondee's current level of payment or ensure that the Agreement reflects the fact that the Employer will meet the shortfall. The payment arrangements will be very important in this scenario.
3. It is normal to agree to pay all invoices requesting payment of the Secondee's salary within 30 days of **receipt**. You should avoid agreeing to pay within 30 days of **the date of any invoice** because if it is delayed in reaching us we may have considerably less than 30 days in which to make the payments and find ourselves in breach of the Agreement.
4. You should ensure you are comfortable with the payment period. It can be monthly or quarterly. Remember to inform Payroll of these arrangements.
5. If the post incurs the recovery of out of pocket expenses it is usual for these to be paid direct by the Host Authority but you may be asked to agree them at the Employer's current rates not our own. This is because the Secondee retains his Employer's terms and conditions, they do not acquire ours. You must ensure you are comfortable with the terms of the Agreement or re-negotiate them, especially if the rates for out of pocket expenses are higher and you have not budgeted accordingly.
6. If the Agreement includes an indemnity and liability clauses ensure they are no more onerous than the indemnity and liability clauses we put into our own agreements.
7. Generally you should check for clauses covering the following issues:-
  - 7.1 Does the Agreement properly identify the parties, the period of secondment, the arrangements for payment of the salary scale, incremental rises etc?

- 7.2 Identification of the job the Seconded is to do and the duties attached. You must ensure these accord with the list of duties you put in any Offer Letter to the Seconded.
- 7.3 If the person coming is to perform a job in which you would want to retain copyright in their work you will need a clause to that effect.

Generally it is a good idea to check the incoming Agreement against our own and contact the Legal Section if there are any glaring differences or clauses you are unsure of.

**Please note advice should always be sought from the Legal Section when using any of the appendices as individual circumstances will need to be reflected in supporting documentation.**

## SCHEDULE 1

1. The Secondee will be appointed as a ^ and will perform the following duties (“the Services”).

(Attach job description as provided by the Host)

2. During the Secondment Period the Secondee will be paid the following level of remuneration, which will be reimbursed by the Host to the Employer in accordance with the terms of this Agreement:-

(Insert annual pay details/incremental rises/overtime rates etc.)

**Please note advice should always be sought from the Legal Section when using any of the appendices as individual circumstances will need to be reflected in supporting documentation.**